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OF

SOCIAL SCIENCE,

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NUMBER XIII.

MARCH, 1881.

SARATOGA PAPERS OF 1880.

PART II.

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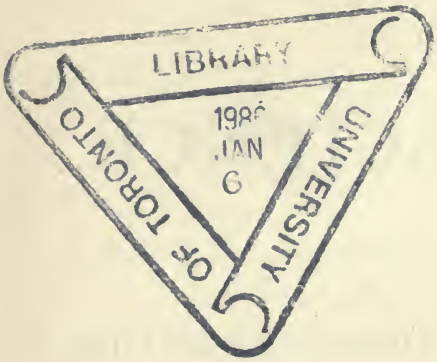

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EDITED BY

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CONCORD, MASSACHUSETTS.

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PREFACE.

The present number of the Journal contains the concluding half of the Papers read before the Association at the General Meeting of 1880, in Saratoga. Two of the Papers there read have been omitted, because not received in time, the Report of Mr. Weeks on Casualties in Mining, and the Paper of Dr. Cushing on the Regulation of Medical Practice by Statute. The Paper of Mr. Brace here printed was only read in part at the Saratoga meeting, and the same is true of the long and valuable essay of Mr. Hartwell. No further publication will be made of the Saratoga papers of 1880.

The Papers invited and the General Order of Business for the Saratoga Meeting of 1881, so far as can now be announced, appear in the following list. The sessions will be held in Putnam Hall, and the headquarters of the Association will be at the United States Hotel, as in former years:

I. THE GENERAL SESSION.

MONDAY, SEPTEMBER 5.

At 8, P. M., Opening Address of PRESIDENT WAYLAND, of New Haven.

At 9.30, P. M., Reception of members and guests at the United States Hotel.

TUESDAY, SEPTEMBER 6.

At 9, A. M., Report of the GENERAL SECRETARY.

At 9.30, A. M., Other Reports and Communications.

At 8, P. M., a Paper by CHARLES DUDLEY WARNER, Esq., of Hartford, Conn., on *American Journalism.*

WEDNESDAY, SEPTEMBER 7.

At 8, P. M., an Address by Hon. FRANCIS A. WALKER, Superintendent of the Census, on *Some Results of the Census of* 1880, followed by a Debate.

THURSDAY, SEPTEMBER 8.

At 8, P. M., an Address by GEORGE WILLIAM CURTIS, Esq., of New York, on *Civil Service Reform in America*, followed by a Debate.

II. DEPARTMENT MEETINGS.

TUESDAY, SEPTEMBER 6.

Department of Education.

At 10, A. M., Address by the Chairman of the Department, Prof. W. T. Harris, of Concord, Mass.

At 11, A. M., a Report by the Secretary, Mrs. Emily Talbot, on the Work of the Department.

At 11.30, A. M., a Paper by Senator Brown, of Georgia, on the *Relation of the Federal Government to Common Schools.*

At 12, M., a Paper by Gen. John Eaton, on the questions of *Education in the Southern States*, followed by a Debate.

At 1, P. M., a Paper by Prof. G. S. Hall, of Boston, on *Religion and Morality in School Education.*

At 4, P. M., a Debate on the *Education of the Deaf*, opened by Dr. Edward M. Gallaudet, of Washington, D. C.

WEDNESDAY, SEPTEMBER 7.

Department of Health.

At 9.30, A. M., an Address by the Chairman of the Department, Walter Channing, M. D., of Boston.

At 10, A. M., a Paper on *House Drainage*, by Edward S. Philbrick, Esq., of Boston, followed by a Debate.

At 11, A. M., a Paper on *The Success of Women as Physicians*, by Dr. Emily Pope, of Boston.

At 12, M., a Paper on *The Moral Treatment of Incipient Insanity*, by Dr. Mary Putnam Jacobi, of New York.

At 1, P. M., A Report by the Secretary, E. W. Cushing, M. D., of Boston.

THURSDAY, SEPTEMBER 8.

Department of Jurisprudence.

At 10, A. M., a Paper by Prof. W. C. Robinson, LL.D., of the Yale Law School, on the *Unification of our Jurisprudence.*

At 11, A. M., a Debate on the *Temperance Question:*

Hon. P. Emory Aldrich, of Worcester, Mass., will advocate *Prohibitory Legislation;*

Rev. Leonard W. Bacon, of Norwich, Conn., will advocate a *License Law;*

Hon. F. W. Bird, of Walpole, Mass., will advocate *Unrestricted Traffic.*

At 12.30, P. M., a Paper on *Divorce Legislation*, by Ex-President T. D. Woolsey, D.D., LL.D., of New Haven.

FRIDAY, SEPTEMBER 9.

Department of Social Economy.

At 10, A. M., Address by the Chairman of the Department, Prof. W. B. Rogers, of Boston.

At 10.30, A. M., Reports from a Special Committee on *Homes for the People*, by Robert Treat Paine, Jr., Esq., of Boston, and others, followed by a Debate.

At 12, M., Reports from a Special Committee on *Art in its Relation to the People*, followed by a Debate.

At 8, P. M., an Address by Thomas Hughes, Esq., of London, England, on *Co-operation as Exemplified by English Experience since* 1870.

Other announcements will be made later, and some changes in the above order will doubtless be made.

The presence of the members of the Association is invited at the Eighth Annual Conference of Charities to be held in Boston from the 25th to the 30th of July, 1881. Governor Long of Massachusetts, will preside at the opening of the Conference, and several of the Governors of States are expected to be present, as well as delegates from a majority of the States and from Canada. The retiring President of the Conference, (Mr. F. B. Sanborn) will give the annual Address on Monday, July 25, and one of the six Standing Committees will report on that day, and on each of the other days of the session. The forenoons will be given to these reports and to the debates following, the afternoons to visiting institutions of charity and correction in the vicinity of Boston, and the evenings to a session for papers and debates.

Members of Boards of Charities and Prison Commissions are *ex officio* members of the Conference, as well as the delegates appointed to represent States. All persons officially connected with public charitable, penal or reformatory establishments, who attend in that capacity are also members of the Conference; and all persons regularly delegated to represent private charitable organizations, are admitted as members on presenting their credentials. All other persons interested in charitable work are invited to be present.

The list of officers elected at Saratoga has been somewhat changed by death and resignation since the publication of the last number of the Journal, and now stands as follows:

OFFICERS OF THE ASSOCIATION, 1880-1881.

President, FRANCIS WAYLAND, New Haven, Ct.

First Vice-President, DANIEL C. GILMAN, Baltimore, Md.

Vice-Presidents.

MARTIN B. ANDERSON, Rochester, N. Y.
THOMAS C. AMORY, Boston.
RUFUS KING, Cincinnati.
Mrs. JOHN E. LODGE, Boston.
W. L. TRENHOLM, Charleston, S. C.
Miss MARIA MITCHELL, Poughkeepsie, N. Y.
W. H. RUFFNER, Richmond, Va.
THEODORE D. WOOLSEY, New Haven.
Mrs. C. H. DALL, Georgetown, D. C.
HENRY B. BAKER, Lansing, Mich.
T. M. POST, St. Louis.
ISAAC SHERMAN, New York.
NATHAN ALLEN, Lowell.
HENRY VILLARD, New York.
J. W. HOYT, Cheyenne, Wyoming.

General Secretary, F. B. SANBORN, Concord, Mass.

Treasurer, F. J. KINGSBURY, Waterbury, Ct.

Directors.

DORMAN B. EATON, New York.
HORACE WHITE, "
ANSON P. STOKES, "
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J. W. DICKINSON, Newton, Mass.
T. W. HIGGINSON, Cambridge.
GEORGE T. ANGELL, Boston.
Mrs. HENRY WHITMAN, Boston.
CARROLL D. WRIGHT, "
H. L. WAYLAND, Philadelphia.

Department Officers.

I. *Education.*—Prof. W. T. HARRIS, Concord, *Chairman;* Mrs. EMILY TALBOT, Boston, *Secretary.*

II. *Health.*—WALTER CHANNING, M. D., Boston, *Chairman;* E. W. CUSHING, M. D., Boston, *Secretary.*

III. *Finance.*—DAVID A. WELLS, Norwich, Ct., *Chairman;* HAMILTON A. HILL, Boston, *Secretary.*

IV. *Social Economy.*—Prof. W. B. ROGERS, Boston, *Chairman;* Mrs. HENRY WHITMAN, Boston, *Secretary.*

V. *Jurisprudence.*—Prof. FRANCIS WAYLAND, New Haven, *Chairman;* Prof. THEODORE S. WOOLSEY, New Haven, *Secretary.*

Executive Committee.

Prof. FRANCIS WAYLAND, *President;* F. B. SANBORN, *General Secretary;* F. J. KINGSBURY, *Treasurer;* Mrs. EMILY TALBOT, *Education Secretary;* Dr. E. W. CUSHING, *Health Secretary;* Prof. THEODORE S. WOOLSEY, *Jurisprudence Secretary;* HAMILTON A. HILL, *Finance Secretary;* Mrs. HENRY WHITMAN, *Social Economy Secretary.*

SARATOGA PAPERS OF 1880.

PART SECOND.

Papers of the Jurisprudence and Health Departments.

GENERAL PAPERS.

PAPERS

OF THE

JURISPRUDENCE DEPARTMENT.

I. PENSIONS IN A REPUBLIC.

BY FREDERICK J. KINGSBURY, WATERBURY, CONN.

(Read Thursday, September 9, 1880.)

For the purposes of the present paper, I divide pensions into two classes: First, pensions *ex gratia*, and second, pensions *ex contractu;* the first class being such as depend upon somebody's favor, or upon accident; and the second class, not being thus dependent, but being the fixed and sure reward, attached to certain specific place, or service.

As to the first class, the pensions *ex gratia*, I have not very much to say in this connection, although there is much that is attractive about these solid expressions of sentiment. Theoretically, at least, they presuppose the unquestioned exercise of individual will. They are the peculiar province of greatness, of riches, of royalty. Their history lies on the border land of the fairies, the genii and the giants. They are the exhibition of munificence, or sometimes of that sweet and gentle charity which is so becoming to princes. They proceed from the giver's sovereign pleasure and own mere motion. But a republican form of government affords, on the whole, very scanty room for sentiment. A republic exercises no sovereign pleasure, and does nothing of mere motion.

The proverb says, "Republics are ungrateful;" that they are so is a law of their existence. Anything which cannot be measured, weighed, or counted must be discarded. Nothing shall be given, nothing received, which cannot be represented in a bill, or stated in an account, which may be duly audited and filed as a voucher. Gratitude soon perishes under such a regimen. Cæsar could give a

province to a favorite captain; Henry could present a crown jewel to a successful courtier; Napoleon could promote a subaltern to a regiment for a slight personal service. But how is it in a republic? Cæsar would be served with a resolution requesting information whether any appointments had been made not strictly in accordance with the rules of the civil service reform, and, if so, in what cases, and under what circumstances; and whether any money had been drawn from the public treasury in payment of the salaries of such persons, and, if so, on what authority, &c., &c. You see how it would be likely to end, especially if Cæsar should wish to run again for Emperor next year.

Somebody has said that "under a republican form of government there is no grace but the poorhouse." Perhaps this is hardly fair, as we do sometimes give pensions to disabled soldiers and reward successful generals. I am not quite sure whether these should be considered pensions *ex gratia*, or *ex contractu*. It is true that they are not given in pursuance of express contract; neither is the fee which the bridegroom hands to the clergyman. But there are customs which have all the force of law, with yet more awful sanctions behind them. On the whole, perhaps they belong to the *ex gratia* variety. They are frequently the expressions of a popular sentiment which does honor to the receiver and to the nation. I would not see them cease; they could not be safely multiplied. In a republic they must probably be regarded as anomalous.

AN INTERMEDIATE VARIETY.

Lying just on the border land between these two classes of compensation for service rendered, there is another, partaking the nature of both, which requires a word. Even within the memories of us now living, a quiet, but very great change has been taking place all over the civilized world in the relation to each other of the extremes of society, — the very rich and the very poor. Once there was a strong interdependence existing between them. On the one side, there was loyalty to old friends and old associations; there was a veneration and love which rendered service a pleasure, and a faithfulness which knew no bounds. The retainer knew his place and never expected to go beyond it. If his child grew up to fill it, it was all he asked or hoped. On the side of the patron, there was recognition of the obligation to protect and care for, to

feed and nourish in sickness and health,—an obligation extending through life and to posterity on both sides, and guarded by social sanctions stronger, and, in this case, far better, than legal codes.

Now all this is rapidly passing away. We point to it as one of the glories of our time, that it should be so; we regard it as one of the strides in human progress. But, connected with the change, as with all great social changes, there are gains and losses. It opens a new life to successful ambition, but it takes away a support and solace from those who are poor, not only in goods, but in spirit; and whose nature it is to depend on somebody higher and stronger than they, with unquestioning faith, and to render faithful, though perhaps, stupid, service in return. In our plans for improving the condition of men, we sometimes lose sight of those "little ones" whose province it is to be taken care of. The grace of the poorhouse, or the more doubtful grace of casual charity, is the only provision for them in our system. When it is settled that one man is as good as another, any mutual duty of service and protection ends. It was always one of the redeeming features, possibly the only one, in the system of American slavery, at all events, under a favorable exhibition of the system, that, to the extent of clothing, food and care for life, there was an obligation on the part of the masters. What the effect is to be of withdrawing this, or how it may be replaced, does not yet appear.

PENSIONS EX CONTRACTU.

Turning now to the consideration of the second class, pensions *ex contractu*, what I have to say is based largely on the following considerations: I note (1) that a very large percentage of the inhabitants of the civilized world labor hard all their lives to gain a bare subsistence, and (2) that whenever a *certainty* of a comfortable support through life, including care in sickness and in old age, is offered in consideration of life-long and faithful service, there are always plenty standing ready to close with the offer, and these by no means always from the lower classes of society. And I infer that there is a great number — indeed a very great number — of men and women in the world who, for this certainty of care and support, if it could be made a certainty indeed, — which certainty is the very essence of the proposition, — would most willingly give the reasonable, faithful service of their lives without asking other compensation or reward.

In proof of the truth of my second proposition, viz: that whenever a certainty of a comfortable support through life — including care in sickness and in old age — is offered in consideration of life-long and faithful service, there are always plenty standing ready to close with the offer, — I cite the history of the monastic orders, the monasteries, convents, colleges and nunneries of the Romish church. Here, — though under conditions which often war against nature, and add what seem to be unnecessary hardship and privation, to necessary toil, — the certainty of support has always attracted as many of all classes of society as these institutions could make room for.

The clerical body of the English church may also be cited as a case in point; where the stipend of a curate, though frequently painfully small, has partly, no doubt through the hope of advancement, but mainly, I think, from the certainty of support, been always a sufficient attraction to keep the lower ranks of the clergy well and respectably filled.

In the early days of New England, when a clergyman was called to minister to a people, the theory was that it was an undertaking for life, — on his part for faithful service; on the part of his people for reasonable support. And the ranks of the ministry were always kept well filled from the best class of the people, without the aid of auxiliary societies, such as the shifting necessities of modern times have created for the special purpose of inducing or enabling young men to undertake this work.

I would also cite the Shaker communities, a species of New England monasticism, which offers a life as bare of attractions as we can well conceive, leaving hardly a foothold for the affections or the imagination; but offering food and clothes and care, and perhaps some human sympathy of a barren sort, — something a little beyond the grace of the poorhouse, — and its ranks are fairly full.

I think also that this same fact underlies the attraction that Mormonism and the various forms of socialistic communism have presented to large numbers of pure-minded, well-meaning people. I would not forget or overlook the fact, that underlying these forms of life which I have referred to, there is a religious element which may be supposed to furnish a sufficient motive, and that this fact detracts from their value as proofs of my proposition. But it is only this certainty of support, in which they all agree, that makes

this offering of a life work a possibility; and besides, our human motives are always so mixed that, judged in the light of what we see and know in other cases, I do not think I am doing injustice to the religious zeal of any of these orders if I cite them in proof of my proposition.

THE PRACTICAL QUESTION.

But the point to be observed is this: that the organization of our civilization is such that a large portion of mankind are glad to embrace the certainty of a comfortable physical life, and to give in return for that certainty a reasonable service, in preference to battling with the uncertainty of a dependence on their own efforts in winning a subsistence. And one practical question, in connection with it, is, whether, or to what extent, this fact may fairly be utilized in meeting some of the problems of our social life.

Of course, society owes it to humanity, owes it to itself, that, so far as is consistent with the best good of all, none of its members should be allowed to suffer; society recognizes this obligation in a thousand ways. That it exists and is imperative, may be assumed without argument. There are limitations, but the limitations are of the same nature as the obligation. It has been discovered by experience that man is lazy. If you will support him without effort on his part, there is great danger that he will not make the effort. Laziness leads to idleness, idleness leads to crime; so that it has been found better for the man and for the race, that he should suffer some pangs of hunger, some cold, some pain, that he may thereby be roused to so much exertion by his necessities that, in the end, his manhood may not be wholly wrecked. This is one of the recognized dangers of nearly every form of so-called charity. Mankind, as a whole, must be fed, clothed and sustained by its own labor; what one does not do another must. Since the world was made, there has been but one good season for manna, and even then it had to be gathered. "He that will not work, neither shall he eat," is a general principle of universal application, as sound as it is old. Perhaps some will remember a spirited little sketch which appeared many years since, in illustration of one of the pet theories of Fourierism, in which an obese individual, leaning against a fence, declines an invitation to go and dig potatoes on the ground that he belongs to the "eating group." I imagine that the tendency of that group to increase has been the ruin of

many a promising socialistic experiment. The problem of industrial life is, how shall the work of the world be so ordered that each shall have his work to do, shall do it, and shall receive his reward, to wit, his comfortable support through life. To the individual, the problem presents itself somewhat in this form: "I shall live seventy years, perhaps eighty; barring accident and disease, I shall be able to work for forty or fifty of those years. The first ten, fifteen, or twenty, as the case may be, will be provided for by my parents, or others; but that must be offset by what I must do for my children, or those dependent on me. Now, to be comfortable, I must earn enough in these forty years not only to support me during that time, but to lay by a surplus equal to my support during the thirty or forty years more, together with a percentage as insurance against sickness, accident, or other misfortune." Stating the problem in this form, is it strange that the man or woman, and especially the woman, should at the outset be ready to make the compromise, and say, "I will give you my faithful labor, if, in exchange therefor, you will make sure to me a comfortable support." And, indeed, so far as the woman is concerned, is not that the contract which she is always making? Without the element of positive certainty, too, on the other side.

Now, what I have to suggest is not, by any means, proposed as a solution of the labor question, or a panacea for pauperism. It is simply an inquiry whether this disposition to give one's life-work for a life support cannot be recognized, and, to some extent, economically utilized in carrying on the work of the world.

To leave abstractions: let us suppose, if you please, that a great railroad corporation, of undoubted credit (for there are such), free from debt, and whose obligation would be as safe as most human things can be, should adopt a system for its employés, by which any person, remaining in its employ for a certain number of years, should, thereafter, be entitled to care, in sickness and health, during the remainder of his life; and, in case of accident, that some fixed provision should be made for his family. Would not a position in such a company's service be eagerly sought, at a rate of remuneration which would enable the company to compensate itself for the additional risk of the undertaking? Or, suppose that, in domestic service, a custom could be developed that wages should gradually increase in case of long continued faithful service, at some recognized, or partially recognized rate. And that a certain continu-

ance in such service should constitute a claim for care and protection, — would not the millenium be hastened thereby? Or, in the halcyon days of civil service reform, shall not the grey haired old clerk, who has served his country through successive administrations, have his downward path smoothed by that country which he has so faithfully served? I speak here in the presence and with uncovered head. Of course, the first and most vital point, in any such scheme, would be, that the obligation to furnish support should be of the highest value. Perhaps there are not at present many business corporations, certainly, very few individuals, whose obligations would be of sufficient value to warrant the employé in trusting to it for a life-support. But this is a question of detail, of which there are doubtless a great many, but which would work themselves clear in time. So, too, the changing, roving habit of our working classes would be antagonistic to such a plan; but, *per contra*, the plan would work against the roving habit, and a general or even rapid change is not urged nor desired. But when one is frequently pained by the sight of helpless old age, or suffering invalidism, or a constitution hopelessly broken down by hard, but unsuccessful, — possibly, because ill-directed, — toil, we lay hold on anything which seems to offer promise of a better state of things. There are men and women to whom God has given the skill and power successfully to manage and direct the labor of others, so that it shall inure to the benefit of all. And there are others to whom this power has been denied, who must find their sphere in obedience and dependence; and any scheme which shall enable us to any extent to harmonize the relations of these two elements, is worthy of our attention. Nor is there anything wholly new in the plan here suggested, or in any of its applications. The Cunard Steamship Company have, for many years, I understand, adopted it to some extent. So, also, our retiring system, in the army and navy, is a step in the same direction, where, however, the support is doled out with so niggardly a hand that neither grace nor justice are satisfied. So, also, there are occasional *emeritus* professorships in our colleges. But these belong, I think, to the *ex gratia* division. They might be transferred, with propriety. So, indeed, life insurances, annuities, and other similar contrivances, may, doubtless, be cited as a partial recognition of the same idea. But what I plead for is a more clear and distinct acknowledgment of its importance and economic value; a more liberal application of the

plan, a larger undertaking for the declining years, balanced by a proper reduction in present compensation.

PUBLIC OFFICES.

I have treated the pension system thus far mainly in reference to its value as a remedy for some of the inequalities and hardships of our social system, and as a method of adjusting the discrepancies which grow out of the unequal distribution of the business faculty among men. I come now to speak of what I at first proposed to myself as the burden of this paper, and from the consideration of which I have allowed myself to be led, perhaps unwisely, astray, viz: the economic value of the pension *ex contractu*, as a method of adding dignity, permanency of character and general usefulness to certain offices, in connection with which either ample private fortune or assured pecuniary independence, secured by some other method, seem particularly desirable. The manifest justice and expediency of the application of this system to the clergy has already led to various somewhat feeble attempts, in nearly all religious bodies, to make some provision for old age and feeble health in this class of men. But a more thorough appreciation of the economic principle involved would, I apprehend, lead to such vigorous and systematic effort as should spare us the pain of seeing these servants of God and their fellow-men, left to drag out an old age in want. In the Roman Catholic Church, to be sure, the clergy are the sons of the church: "They that wait at the altar are partakers with the altar,"—nor is this an empty figure of speech. By the nature of their calling the clergy are in good degree debarred from entering into business transactions, or from doing any thing which shall enable them to accumulate a sufficient provision for sickness or old age. Public opinion requires from them this abstinence from secular callings, and usually their training and education also unfits them. They give their lives to their work, asking for nothing but their daily bread. And if only that could be assured, what a load would be taken from many a weary soul, toiling in his Master's field through the heat of the day, with no better prospect than a frigid charity, sometimes worse than pauperism, at the evening of life.

The independence and purity of the judiciary is the corner stone of liberty, — the only guaranty of freedom for the country or the individual. To maintain this, we should at all times be able to

place upon the bench the best men whom it may be possible to select, whose character and acquirements most fit them for the high office. Successfully to do this we must, in all ways possible, exalt and dignify the position itself, so that the office may of its own force carry with it grandeur and nobility. This cannot successfully be done without seeing to it that the mind of the occupant shall be free from all pecuniary anxiety.

Said Amos Lawrence: "I consider the value of a great fortune to consist in this, that it gives to its possessor the sense of personal independence." And the clerical wag, who always borrowed five dollars of a friend on Saturday night and returned it on Monday morning, in order that he might be able to preach without fear of man,—having a consciousness of money in his pocket,—understood the matter in the same way. But it is not desirable that we should be always limited in our choice to possessors of fortunes, — even borrowed ones.

There may be Spartan natures,—indeed, our own judiciary is not wanting in examples,—that would devote the best years of a pure life to the public service, living meanwhile, so to speak, on a crust. But this is not the rule. It should not be required nor expected.

Thus far, it is true, we have, on the whole, been fortunate in our judiciary. The value of money has been greater in the time past, and, I fear, the honor of the position also. But we are beginning to suffer from a change. It has become notoriously difficult to fill the higher judicial places with the men whom public opinion designates as most fit. Do we appreciate as we ought the full significance of this. Is it not fraught with evil? A fact to make us tremble. Can it be well with a nation when she cannot freely command the services of her best citizens for her highest offices? Now, there are but two remedies for this trouble. Either salaries must be increased to so large an amount as to bear some close relation to the professional gains of the ablest men, or a substitute must be offered, in such an assured support through life, as shall seem an equivalent therefor.

We can hardly expect to bring ourselves at once up to the standard of the great, but, perhaps, not too great, judicial salaries of Europe, but we can accept the other alternative. Briefly, then, I would urge, that to our highest judicial positions, say our courts of last resort in the States, and to our Federal courts generally, there be attached pensions liberal in amount, either for life or

beyond, to be entered upon whenever old age or declining health rendered the recipient unable longer to perform the duties of his office. That such a plan as this would have no place under a system which appoints or elects the judges of its highest courts, for terms of five or ten years, will, I trust, be no argument against it.

Why is it that as we grow more and more material, and year by year the money power,—that which is money power and nothing else,—becomes greater and more obtrusive, we should seem to endeavor to ignore the true power and value of wealth, and to be ashamed of the grand and elevating character of a force, while we yield ourselves so freely to its more sordid and ignoble influences? It is not the power of wealth which we shou d seek to avoid, but the wielding of that power by sordid, vulgar, ignorant and corrupt wills, and in the interest of what is false and mean. And we shall find that this force can be most effectually withstood, not by sneering at money, or ignoring its power, but by sanctifying, so to speak, its uses, and combating the vulgar and corrupt by the enlightened and the pure.

When John Adams rose on the floor of the Continental Congress to nominate George Washington as commander-in-chief of the American army, one of the first qualifications that he named was the possession of an ample fortune; not because it was expected he would use that fortune, but because of the personal independence, the social power and influence, that it gave its possessor. There were other men who wanted that place that day, far more than did Washington. Why was it that no man quite dared to speak of him as a bloated bondholder, or a purse-proud aristocrat, or even as the owner of a barrel? Perhaps he was all these, but he was something more. We do not honor ourselves when we endeavor to bring down all men, or all places, to our own level. In honor as in goods, "There is a withholding that tendeth to poverty."

We may not always find or care to find for our presidents men of ample fortunes, but we owe it to ourselves and to our national honor, that having once placed a man in that position, he should never thereafter want means to support the dignity and state that should belong to one who has once occupied that distinguished office. Henceforth let him belong to his country.

In order to emphasize the economic aspect of the plan, I had entered into some calculations to show that a liberal retiring pension

might be given to a president without material additional expense, but I have concluded to omit the figures. I did think, also, of making a brief appeal in behalf of pensions for some prominent candidates for high office. I am sure there have been times when it would have saved us all a deal of trouble, but the fear lest it might multiply applicants leads me to think it better to bear the evils that we have (or have had) than fly to others that we know not of.

NOTE. — After the above Paper was prepared, I learned that the subject of pensions for college professors, had already been agitated in one, at least, of our leading universities; also, that a distinguished German scholar, who had been invited to a chair in one of our American universities, had hesitated to accept, because, although the salary offered here was much larger than he received in Germany, no pension was attached. Also, that one of our leading railroads had adopted the pension plan, to some extent, and, so far as tried, with gratifying results.

This Paper was read before the subject of a pension for retiring presidents was discussed in the newspapers, otherwise, I should have added a few figures in illustration of what I conceive to be the proper application of the plan. Suppose that, instead of $50,000 per annum, we make our presidential salary $30,000, with a retiring pension of $10,000 per annum. A little computation will show that the cost of this change to the country would be next to nothing, while we should be spared the disgrace of seeing an ex-chief magistrate reduced to want, an event, I regret to say, not wholly unknown in our history, and which, evidently, may occur again.

II. MODERN LEGISLATION TOUCHING MARITAL PROPERTY RIGHTS.

BY HENRY HITCHCOCK, LL.D., OF ST. LOUIS.

(Read Thursday, September 9.)

During more than thirty years past the several States of this Union — some earlier, some later, now with hesitating steps, again with innovating boldness — have been legislating upon the subject of property rights under and as affected by the marriage relation. In no less than fifteen States this topic has been thought to deserve a place among the provisions of their Constitutions, beginning with the Constitution of California adopted in 1849.

Almost without exception, the legislation referred to has been a departure, varying greatly in degree but uniform in tendency, from the rules and principles of the common law, inherited or adopted from England, and the foundation upon which, in all the States except California, Louisiana and Texas, their several superstructures of municipal law were for the most part erected. In all such statutes the end proposed seems to have been the relief of married women from supposed injustice, and the protection of the property which they possessed before, or might acquire or earn during marriage, from any claim in favor of their husband's creditors. That such protection is necessary, wise and just, is the common postulate of all the statutes in question.

But the degree and the mode of development of this important proposition has varied greatly in different States. For example, under the Tennessee statutes of 1850, amended in 1875, it went no further than the exemption of the wife's property, real and personal, from seizure by the husband's creditors, and the requirement of the wife's concurrence in the husband's sale of her real estate. Under these acts the old doctrine of the common law remained essentially unimpaired, to wit, that *at law* — that is, in the absence of voluntary trust settlements under the principles of equity jurisdiction — the legal ownership and control of the wife's property in possession passed by the marriage to the husband. In Missouri, on the other hand, legislation which began in 1849 with a mere exemption from seizure on execution for the husband's *ante-nuptial* debts, of all property owned by the wife before, or acquired by her during the marriage, has at length blossomed and

expanded into the present code of 1879. This not only secures to the wife the absolute ownership and control, independent of her husband, of all personal property which she may own at, or acquire by gift, bequest or inheritance, or by purchase with her separate estate, or her own labor, or as damages for a *tort* to herself during, the marriage, but in terms disables the husband from selling, encumbering, or otherwise disposing of any such property, unless by her express assent *in writing*, fully authorizing him thereto. The provisions of the same code in respect of the husband's interest in and control — or want of control — over real estate owned by the wife involve almost as complete an abandonment of the common-law rules; though in Missouri, as in several other States, we find an anomalous survival of that common-law right in the husband known as his "estate by the curtesy," namely, his right in virtue of the marriage, consequent upon the birth of a child, the husband also surviving the wife, to an estate for his life in the lands owned by the wife in fee. In Massachusetts the changes from the old law are even more sweeping, but for our immediate purpose these illustrations suffice.

It is the object of this paper to call attention to some of the more important changes which have taken place in the municipal law of the United States touching this class of property rights, so intimately connected with the very framework of society itself. Its limits preclude any attempt to set forth either the history or the full effect of the several statutes in question. Such a task would involve the collation of two or three hundred separate enactments, in nearly forty different States, during a period of thirty years and more, and which have been under discussion in perhaps a thousand or two of decided cases. Mr. Bishop's treatise on the "Law of Married Women," of which the second volume, specially devoted to the modern legislation on this subject, was published in 1875, is one of the latest and best authorities upon the subject, evincing great research and independent thought; and the present writer desires once for all to express his obligations to it for many of the statements herein made. A still later treatise, by Mr. Wells, of Illinois, though less elaborate, is also a valuable statement of the existing law.

In truth, the magnitude of the task is not its greatest difficulty. The chief embarrassment of any attempt to state accurately or completely the existing law on this subject would be found in the

fact that while these statutes are destroying, piecemeal, the ancient common-law system of marital property rights, expounded and eulogized by Blackstone, it has not yet been replaced, even in States where not a vestige of the common law on this subject remains, by a new system, symmetrical, consistent, or complete. To quote from Mr. Parsons' treatise on the Law of Partnership :—

"The whole law of married women is, in this country, or in many of our States at least, in a transition condition, and it is not easy to ascertain or define it. There is everywhere a strong disposition to escape from the old feudal doctrine, which almost merged the existence of the wife in that of the husband. We do not always remember, however," adds this eminent jurist, whose warning hasty legislators and too ardent reformers might heed with profit, " that the opposite of wrong, is not necessarily right."

In like manner, Mr. Schouler, in the introductory chapter of his work on Domestic Relations, says :—

" The law of England and America on this topic [husband and wife] is now undergoing a remarkable change; and so unsettled are its principles at the present time, that the writer has felt constrained to depart somewhat from the usual plan of law treatises, adopting what might be termed a consecutive or historical arrangement of his materials, since otherwise the subject would furnish to the reader's mind *little else than a series of unreconciled contradictions.*"

It may be doubted whether, in respect of any other class of property rights, the actual *status* of the municipal law of many of the United States, or its just administration, is attended with so much uncertainty. Bench and bar alike are constantly embarrassed by the duty of construing and applying new statutes, which in part abrogate and in part leave untouched long-established rules : statutes couched in terms, the full force of which the legislator evidently had not weighed, and raising new questions for which they afford no solution. Yet the courts, compelled to face these questions in the ceaseless conflict of human interests, must somehow solve them : if not by the express provisions of the statute, then in harmony with its probable intent, and also in harmony with other established rules of property or conduct,—to disturb or ignore which would be equally an abuse of judicial power and the sure occasion of future injustice. It is not surprising that inconsistencies, not only apparent but real, should be met with.

But history teaches nothing more clearly than that fundamental changes in laws and institutions, especially among a free people, can come about only by this process of development. They are

evolved, commonly by slow degrees, from antecedent habits, customs and laws which no longer satisfy desires or respond to convictions constantly modified by new material conditions, new moral and political forces, themselves the product of causes equally composite, equally the outgrowth of the past, but peculiar to that people and to that stage of its history.

And the process itself, whether of true growth or of decay, is, for most of those whose destiny it affects, as unconscious as the daily growth or decadence of their physical frame.

It is the province of social science to observe and compare the phenomena scattered (it may be) through long periods and over wide areas, from which to ascertain the causes and tendencies of such a process; to forecast their operation, to discern those which exalt and purify society from those which, uncontrolled, tend only to its degradation — and thus to aid the moralist and the law-maker to enlist on the side of beneficent progress even the unconscious and unmoral forces of natural appetite and desire.

Let us endeavor, in part at least, to analyze the meaning and the tendency of the legislation already referred to: to which end must first be considered the preëxisting laws which it changes or repeals.

Every system of jurisprudence includes, or rather rests upon, a body of rules, principles and maxims, constituting what is called "the unwritten law," as distinguished from the written or statute law of express legislative enactment. In all our American States except one, the "common law," or the unwritten law of England, as modified by statutes, supplies the unwritten rule — the "civil" or Roman law taking its place in Louisiana. As between the unwritten law and a conflicting statute, the latter of course prevails, being the later *fiat* of the supreme power. But no legislative code ever did or could provide for the infinitely various contingencies of human life, to say nothing of the ever-recurring necessity of applying and interpreting the statutes themselves; wherefore recourse must be constantly had to the unwritten rules and principles found in the authoritative decisions of the courts. Hence it has been truly said that "all provisions of law, statutory and common, at whatever several dates established, are to be construed together, as contracting, expanding, enlarging and attenuating one another into one harmonious system of jurisprudence." It is therefore necessary, as Lord Coke said long ago, "to know what

the common law was before the making of a statute, whereby it may be seen whether the statute be introductory of a new law or only affirmative of the common law; because this," he continues, "is the very lock and key to set open the windows of the statute."

"The common law," says Mr. Justice Blackstone, "considered marriage in no other light than as a civil contract; allowing it to be good and valid in all cases where the parties, at the time of making it, were willing to contract, legally able to contract, and actually did contract in the forms and solemnities required by law."

These words of the justly celebrated commentator on the English common law have, however, been criticised as inaccurate, in this: that marriage,—that is, the relation or condition of husband and wife,—while it originates in a contract, is not itself a contract, but a *status*. This distinction is of the highest importance. It is characteristic of the contract of marriage, that when a man and a woman do by mutual and lawful agreement become husband and wife, they thereby enter into and create for themselves a civil and political *status* which the State controls, and the rights, duties and liabilities growing out of which the State, not the contracting parties, prescribes and regulates. To adopt Mr. Bishop's illustration:

"If two couples were married, side by side, and the man and woman constituting one couple agreed that he should be master and she should obey him, and they who constituted the other couple agreed that the woman should be the master and the man should obey her, this agreement would have no effect upon their acquired *status*. As to the matter of mastership, the law would settle the question of rule between both couples alike."

It follows that the question whether the laws of a given people regulating marital rights and duties are wise and beneficent, or not, must be determined with reference to the *status*, both of persons and property, which those laws establish for husband and wife, as between themselves and between them and the community. Is it such that its incidents and consequences, as fixed by law, tend, on the whole, and so long as they fulfil its obligations, to secure the happiness of persons thus united, the welfare and stability of the family, the wholesome training of future citizens, and the purity, good order and safety of the State? Upon the answer to this question must largely depend the future of the State itself.

The *status* of marriage, according to the English common law as it existed a hundred years ago, is thus set forth by Blackstone:—

"By marriage, the husband and wife are one person in law; that is, the

very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband. . . . Upon this principle of a union of person in husband and wife depend almost all the legal rights, duties and disabilities that either of them acquire by the marriage. . . . For this reason a man cannot grant anything to his wife, or enter into convenant with her; for the grant would be to suppose her separate existence, and to covenant with her would be only to covenant with himself; and therefore it is also generally true that all compacts made between husband and wife when single are voided by the intermarriage."

This broad statement, however, that the legal existence or being of the wife is merged, during marriage, in that of the husband, must be taken with some qualifications, even at common law. The meaning of the rule is, that the relation which she occupies to him is such that she is held to be under his coercion or influence, and being thereby deprived of freedom of volition, should not be bound by her contracts with him. But a grant of property to her by a third person is valid, and vests the title in her, subject to the husband's marital rights.

Our limits forbid an attempt to quote in full the rules concerning marital rights and duties, as to persons and property, laid down by the learned commentator. Only the more important can be summarized here.

Following the common-law division of *things*, or property in general, into *things real*, or immovable property, — of which the chief example is land, — and *things personal*, or movable property, — such as merchandise, money, cattle, — the rights which, by and in virtue of the marriage, the husband acquired at common law in respect of the property of the wife may, in general and very briefly, be stated thus:—

1. As to lands of the wife, in possession, owned by her in fee,— that is, absolutely, — whether acquired by her before or during the marriage, the husband, as such, was entitled at law —

To the ownership and possession of such lands during the marriage, and to all the rents and profits thereof, with power to lease or convey the same without her concurrence. But the death of either wife or husband terminated the estate or interest in such lands so vested in him by and during the marriage. If the wife survived, she was again their sole owner, with the option of affirming or avoiding any lease or conveyance of them made by the husband alone. If the husband survived, no child having been born of the marriage, his estate in such lands by marital right

was at an end, and they descended to the heirs of the wife. But if there had been born of the marriage a child capable of inheriting, then the surviving husband, at the death of the wife, whether the child lived or not, became vested with an estate for the rest of his life in all such lands — technically known as his estate by the courtesy of England, or briefly, his curtesy estate.

2. As to what were called *chattels real*,—in common parlance, leasehold interest in lands,—if the wife owned or acquired any such, the husband, in virtue of the marriage, was entitled—

To all rents accruing during the marriage; also, to sell or dispose of the leasehold, or any interest therein, as his own, without her concurrence; and if she died first, he became absolute owner of such leasehold by survivorship. But if he died first, without having conveyed or disposed of such leasehold, then her sole ownership of the unexpired term revived.

3. As to what are called *chattels personal*, or movable property of the wife, in possession, by her owned or acquired during the marriage,—such as money actually in hand, goods or movable property of any kind in her possession or control, — all such property became the absolute property of the husband, the legal title thereto at common law vesting in him instantly upon and by virtue of the marriage, and her possession being in law the possession of the husband. Also, all the earnings of the wife during the marriage, though produced solely by her labor or skill, belonged absolutely to the husband, at common law; though in extreme cases, as of abandonment by him, a court of equity would treat them as her separate estate.

But the necessary apparel of the wife, and ornaments suitable to her rank and degree, which were called her "paraphernalia," belonged to her at her husband's death, not subject to be devised by him nor claimed by his representatives; nor was the former subject even to the claims of his creditors.

The estate or interest of the husband in these different classes of property, to the extent respectively above stated, was liable to be seized, like any other property vested in him, for the payment of his debts, whether contracted before or during the marriage.

Another description of property, known to the common law (and still technically designated) as *choses in action*, consisted of rights or demands, whether to money or property, which, if disputed or withheld, could be enforced only by an action or proceed-

ing in the courts—whence the name. Thus, a claim for money due on a bond owned by the wife before marriage would be a *chose in action;* and so, in general, all mere rights on her part to recover or enjoy money or property, not accompanied by its possession, are *choses in action.*

"These," says Blackstone, "the husband may have if he pleases; that is, if he reduces them into possession by receiving or recovering them at law. And upon such receipt or recovery they are absolutely and entirely his own, and shall go to his executors or administrators, or as he shall bequeath them by will, and shall not revest in the wife. But if he dies before he has recovered or reduced them into possession, so that at his death they still continue *choses in action*, they shall survive to the wife; for the husband never exerted the power he had of obtaining an exclusive property in them."

As to this species of property it remains to be said only that if the wife died first, the right of the husband, as such, thus to make it his own, ceased. But by the statute of 29 Charles II. he was entitled to administer on her estate, and as her administrator, though no longer as her husband, to recover and reduce into possession all her *choses in action*, if any, still outstanding, and after first paying therewith any debts contracted by her before marriage, to retain the residue to his own use.

From the common law principle of the legal unity of husband and wife flowed other rules touching their relations to each other and to the community.

The husband was the head of the family; and to him, as such, was by the common law committed that authority over the interests and the conduct of those who might compose it, which, in the nature of things, must inevitably reside *somewhere* in every society or partnership where common interests exist and conflicting views may arise. The wife being, in legal phrase, *sub potestate viri*,—under the power of the husband,—there resulted to him the right to decide and control, and to her a corresponding duty to obey, which, in those less critical and introspective days, seemed consonant alike to the voice of inspiration and the dictates of common sense. To her resulted also a legal incapacity to contract, not only with her husband, but with any person. At common law, any contract whatever made by a married women was, as to her, a mere nullity, for she was held to lack the freedom of will requisite for the consent which is a vital element in every valid contract; and though this rule imposed a disability, it was likewise held to be

a protection. For a like reason, no married woman could appoint an agent or attorney, though she might act as her husband's agent by his authority. Nor could she make a will. Another result of this principle was, that although the wife's capacity, in general, to commit crime was not merged or lost, she was still not responsible if she committed what would otherwise be crime, through constraint of her will by the husband; and in this respect the law protected her as it did not any other class of persons. Such constraint or coercion is presumed if the husband be present at the commission of an ordinary misdemeanor, or a felony of the lighter kind; but in cases of murder, treason, and some add robbery, the presumption does not exist, and actual coercion must be proved, to be a defence.

Again: the wife could not be made a defendant in any action at law unless her husband was joined as a co-defendant. To the husband, in their joint names, belonged the assertion in the courts of law of all rights or demands of which, in legal phrase, she was the meritorious cause—in other words, the consideration of which proceeded from her; nor could any action at law be brought in her name alone. But if the husband was banished, or abjured the realm, she could sue and be sued as a single woman.

Another important consequence of the legal unity of the husband and wife was the rule that "in trials of any sort they were not allowed to be evidence for or against each other; partly," says Blackstone, "because it is impossible their testimony should be indifferent, but principally because of the union of persons." But when the husband committed an offence directly against the person of the wife, he stood in no better case than any other criminal, and she might testify against him.

On the other hand, marriage imposed upon the husband certain obligations of his own, of which the first was the absolute duty to support and provide for his family. If the wife could not lawfully rule the husband, neither was she bound to support him. On the contrary, whether she brought him an estate or not, and even though she might, by grant or contract enforceable in a court of equity, possess a large separate estate,—which the common law permitted, as we shall see, though without enforcing such rights in the common law courts,—he was bound to maintain her in accordance with his own means and his position in society; failing in which, he was liable to third persons for necessaries furnished for

her proper support. Nor, in the absence of misconduct on her part affecting the marriage relation itself, could he under any circumstances escape this liability. Added to this was the duty of paying the wife's ante-nuptial debts, even though this privilege were the only dowry she brought him, provided he was required by her creditors to do so during the marriage; "for," says Blackstone, "he has adopted her and her circumstances together." At her death this duty ceased as to her debts not previously recovered against him, except to the extent of funds thereafter collected by him as her administrator. He was also civilly liable in damages for all *torts* or civil wrongs committed by her. Indeed, if committed by her in his company or by his order, he alone was liable; if not, he was jointly liable with her, and the action for damages must be brought against them both. It has been held in this country, under the common law rules, that in an action against husband and wife for damages for slander spoken by the wife, evidence of his efforts to prevent the circulation of the slander could not be received, even in mitigation. But in no case was the enticement of the wife held to be any justification for the husband.

Finally, though the wife acquired by her marriage no vested right in or to any property of the husband, but only the right already mentioned, to have him suitably support her and pay her debts, — an obligation which husbands have sometimes found quite coextensive with their ability, — it did at once confer upon her, at common law, an inchoate right to a provision out of his estate, which became consummate at his death, the wife surviving. This was "the well known provision termed *dower*, which consisted in the use by her, during her life, of one-third of the real estate whereof the husband was seized in his own right at any time during the marriage; it not being necessary, however [as we have seen that it was for the husband to acquire an estate by the curtesy in her hands], that there should actually be a child born." Nothing could deprive her of this right save her own voluntary act; for, though, if divorced, she forfeited dower, her fault must precede the divorce. Her concurrence, therefore, was necessary not only to the sale by her husband of any lands owned in fee by herself, but also to pass a complete and unencumbered title to any lands owned by him.

Moreover, by the ancient common law, which, it appears from

Blackstone, remained in force till the time of Charles I., or later, the widow was also entitled to her "reasonable part" — namely, one-third — of her husband's goods or personal estate, and his children to another third, only the remaining third being subject to his disposal by will; or if he left a widow and no children, she was entitled absolutely to one-half his goods, the remaining half being subject to his will. But successive statutes had changed this by the early part of the eighteenth century, so that a testator could bequeath his entire personal estate if he chose. Modern legislation in some of the American States has restored, substantially, the provision in this respect of the ancient law.

It is believed that the foregoing summary fairly sets forth, in outline at least, the *status* of marriage, and the rules of property applicable thereto, as prescribed by the English common law. And for almost a century after Blackstone's time, it was changed very little by statutes.

No doubt these rules were liable to grave abuse. The same may be said of every law or system of laws by which power over the interests or welfare of any human being, to any extent discretionary, is committed to any other human being. Of necessity they were general rules, framed in accordance with the theory of the marriage relation prevailing when and where they grew up.

The very foundation of that theory was the conviction, warranted alike by experience and by the precepts of Holy Writ, that the fulfilment of relations so intimate and so lasting, of duties which imply on both sides so strong a purpose of mutual care and affection and require a harmony of action so complete, demanded that when differences did occur, the unquestioned power and right should be at hand to decide and end them: and that the questions daily arising in the conduct of a family, as to the domicile, the associates, the occupations, and the expenditures of its members, should not become the daily occasion of domestic bickering and unhappy strife.

To men, in general, nature has given greater strength, cooler judgment, broader foresight: to women, in general, more quick and delicate but narrower sympathies, impulses more active but less stable, fortitude rather than courage, the gift to charm and persuade rather than the power to command. To the man, therefore, the common law assigned the headship of the family, and with it the duty and burdens of its support; to the woman, the

duty of obedience, and with it the right to be maintained, cherished and protected. And it will be observed that the husband's common-law rights in respect of the wife's property corresponded with the duty thus laid upon him; for, as Mr. Bishop has pointed out, they included only such interests therein as could be made available for present support. Such was the theory and such the general rules of the common law on this subject — characteristic of a vigorous and practical race. The question between them and any other system is not a question of the intellectual or other superiority of either sex, but simply, Which system is based, on the whole, upon the truer conception of the marriage relation, and which, on the whole, will best promote the ends for which that relation exists, human nature being what it is?

But it would be a very incomplete account of any important head of English or American jurisprudence that should omit to mention that other body of principles which, under the name of equity, and almost as ancient as the common law, grew up by its side, modifying and frequently controlling its operation. It is neither necessary nor possible here to set forth how this jurisdiction arose: in part from historical and political causes, in part because the common-law courts long obstinately adhered, especially in respect of real property rights, to the strict rules, the narrow and technical conceptions and often oppressive exactions of the feudal system, and refused or were unable to furnish relief varied and efficient enough for the wants of a growing civilization. Suffice to say, in the old phrase of the books, that equity supplied that wherein the common law, by reason of its universality, — that is, its general rules, inflexible, often harshly operating, — was deficient. Thus, if the common-law court found itself obliged by established rules and precedents to enforce the letter of the penal bond, and to forfeit the mortgaged estate for non-payment at the day, equity compelled the creditor to allow further time to redeem. When the common law could afford no redress but money damages, inadequate to repair the wrong or avert the mischief of a broken contract, equity would interfere to enforce its specific performance, or by injunction to prevent its threatened breach. He who obtained possession of an estate by the ceremony which the common-law courts recognized as vesting the title in him alone, but who refused to fulfil the trust and confidence upon which it was so conveyed to him, soon found the heavy hand of equity laid upon

his own person, and himself in its custody until that duty was acknowledged and performed. And so came about what has been well described as "that curious phenomenon in our jurisprudence, . . . that it should contain two separate and somewhat antagonistic series of principles, one of which is peculiar to one class of tribunals, and the other to another."

Now, while the common law, as we have seen, prescribed the *status* of marriage and the rights of property incident to it, yet it also permitted the parties, if they preferred some other rule to that which the common law otherwise furnished, to regulate those rights of property by ante-nuptial, and to a limited extent by post-nuptial contract, for which marriage was recognized as a consideration of the highest nature. For such a purpose the principles and the machinery of equity were available. The equity doctrine of trusts, not cognizable in common-law courts, enabled the intended wife, or her friends, by such a contract to interpose between herself and her husband a trustee, who, as against all the world but herself, should be the owner of her property, and against whom her husband could assert no claim in respect of it, except such, if any, as the contract secured to him; but who should hold that property for her separate and exclusive benefit, and whom at her suit a court of equity would compel to obey her sole instructions. The husband himself might by the contract be made such trustee; or, if not, a court of equity would declare him such, if necessary to give full effect to it; and his marital rights at law would be displaced by his duties as trustee in equity. In respect of such separate estate, her own position would be completely different from that assigned to her as wife by the common law. Her contracts, void and null in a court of law, would in a court of equity be valid as a charge upon and enforceable against her separate estate, as to which in equity she was treated as a single woman. At law, she could neither sue nor be sued alone, much less sue or be sued by her husband. In equity, in respect to her separate estate, she could do both. So highly did courts of equity favor and protect married women, that even where there was no contract nor separate estate, if the husband, in asserting his common-law rights to the possession of her property, sought the aid of a court of equity, it would be granted only on condition that he should settle on his wife such portion of the property, and upon such conditions for her separate benefit, as the court might deem

reasonable and just. This was called "the wife's equity to a settlement," and is one example of the relations of the two systems.

So, in many cases where no written contract, or settlement, existed, even where no express agreement of any kind had been made, courts of equity have seized upon acts or acquiescence of the husband in respect not only of the wife's property, but his own, upon which to base a presumption of a gift to her separate use, which they have enforced for her benefit, even to the absolute denial of common-law rights whose enforcement would have been harsh and unjust.

Thus grew up in England, and was transplanted to this country, a distinct body of law concerning married women, enforced by separate tribunals, and displacing the common law whenever, by reason of contracts or special circumstances, such as already mentioned, the jurisdiction of equity attached. The unwritten law, using that term in its broadest sense, included both. But notwithstanding these exceptions to and encroachments upon its rules, the *status* of marriage, and the legal unity of husband and wife established by the common law, remained; and even by agreement, only the rights of property incident thereto, could be changed.

The first step towards the new legislation appears to have been taken by the State of Mississippi, by an act passed in February, 1839, which *permitted* — but did not prescribe — the separate and absolute ownership by any married woman, in her own name, of any property, real or personal, acquired by her in any manner *except* from her husband after marriage; the exception being, of course, to prevent transfers from husband to wife in fraud of his creditors. This act, however, did provide that slaves owned at, or acquired after her marriage *should be* — not might be — the wife's separate property, but still reserved to the husband their control and management, and the profits of their labor. This partial, but significant change in the law stood thus for seven years. It has gone much farther since in that State.

Next came an act passed by the State of Maryland, in 1841, which only provided, however, that the wife's real estate should not be liable to execution, during her life, for her husband's debts; thus leaving his common-law rights untouched, but protecting them both, in respect of her property, against his creditors. This policy continued in Maryland down to 1860, when, by statute, the wife's property was made her separate estate, including her earnings, to the extent of $1,000.

In 1844 to 1846 the movement thus commenced was joined by the States of Maine, Michigan, Rhode Island, Connecticut, Massachusetts, New Hampshire, Kentucky, Arkansas, and the then Territory of Florida, but with unequal steps. The differences in their respective statutes illustrate their tentative character, and the varying degrees of opposition which, doubtless, they met.

Thus, the Maine act of 1844 seems, in effect, to have destroyed "at one fell swoop" all the common-law rights of the husband in respect of the wife's property, except such as had already vested — the latter act of 1871, declaring in express terms that a woman having property is not deprived of any part of it by her marriage, since the act of March 22, 1844; and a husband, by marriage since that time, acquires no right to any property of his wife. The Michigan act of 1844 was, in substance, very similar.

The Massachusetts act of 1845, on the other hand, and the New Hampshire act of 1846, which copied it, only authorized the wife to acquire, *by express ante-nuptial agreement*, a separate estate in the property by her owned before, or acquired after the marriage. In these States, also, subsequent legislation has gone much farther, notably in the former.

The earliest Rhode Island statute (of 1844) secured in some measure to the wife, a separate estate in her ante-nuptial and post-nuptial property; and this, also, has since been extended and enlarged.

The Arkansas statute of 1846, was apparently in imitation of the Mississippi act of 1839, already mentioned, being, like that, only permissive of a separate estate. In view of what has been said concerning voluntary settlements by agreement before marriage, as long previously permitted by the common law and enforced by courts of equity, such statutes might seem to be superfluous. But they were important, not only as indicating the tendency of legislation, but because they substituted for the equitable estate or interest, which alone such settlements could secure to the wife, her absolute and complete legal estate in the property; to which somewhat different incidents were annexed and rules applied by the common law.

The Kentucky act of 1846 was much less radical in its provisions than some of those above mentioned. This State never has gone so far in what is called the protection of married women as some others. Even the latest revision (of 1873), while it takes

away the husband's common-law estate during marriage, in the wife's lands, and his right during marriage to claim as his own the rents and profits thereof, yet reserves to him the power to rent her real estate for not exceeding three years at a time, and to receive the rent. On the other hand, such real estate and rent are exempt from seizure for any debt or responsibility whatever of the husband; but are made liable for her ante-nuptial debts, and for such debts, contracted after marriage, for necessaries for herself, her husband, or any of their family, *as shall be evidenced by writing signed by her*. As to the wife's earnings during marriage, they are made absolutely her own, and her separate receipt discharges her employer; but the husband's estate by the curtesy as at common law, — that is, if a child be born of the marriage, and the husband survive the wife, his estate for the rest of his life, in all her inheritable lands, — is preserved, with the proviso that his contingent right to it is, during the life of the wife, exempt from liability for any separate debt of the husband's.

These curiously mixed provisions illustrate the crude condition of much of the existing legislation on this subject. It is obvious what evils they were aimed at, but a very brief consideration of their practical working would show that they afford dangerous opportunity for outrageous injustice to creditors under cover of the law. The community also needs protection sometimes.

The Territorial act of 1845, of Florida, was based upon a more definite theory. It provided, in express terms, that the wife's property, before marriage, and that acquired by her afterwards, should continue her separate and independent estate, not subject to the husband's debts, *provided* an inventory of it were recorded in the circuit clerk's office of the county where it was situated, within six months after the marriage, or after its acquisition; but also, that the husband should have the care and management of it, and should not be accountable to the wife for its income; all sales and transfers of the wife's property to be jointly made by husband and wife. In other words, it recognized the husband as the head of the family, and entitled to direct the expenditure of its entire income, but protected the wife's capital from diminution by his act or liability, unless by her free consent, while it gave notice to third parties how much of the estate, apparently belonging to him, was really beyond the reach of his creditors.

The Connecticut act of 1845 was the first of eleven successive

statutes passed in that State, at intervals, during the twenty-one years ending in 1866. The following extract from the opinion (by BUTLER, J.) of the Supreme Court of Connecticut, in the case of *Jackson* v. *Hubbard*,* illustrates the gradual course of such legislation, common in the older States. Said the Court: —

"Full and complete protection to married women in their rights of property against creditors of the husband is now the established policy and settled law of the State. That result was obtained gradually and with difficulty, owing to an unwillingness to change the settled rules respecting the rights of the husband at common law. The first act was passed in 1845, and protected [the word "protected" here means, forbade his creditors from seizing, as they could do at common law] the interest of the husband in the real estate of the wife which was hers at the time of the marriage, or accrued to her, by *devise or inheritance*, during coverture. The second, in 1849, protected the personal estate which should thereafter accrue to her during coverture, *by bequest or distribution*, by vesting it in him as trustee for her. The third, in 1850, protected *real estate conveyed to her* during coverture in consideration of money or property acquired by her personal services during coverture, or while abandoned by her husband. The fourth, also in 1850, protected reinvestments of the avails of her real estate when sold. The fifth, in 1853, vested in her, for her sole use, all her property, real and personal, *when abandoned*. A sixth, in 1855, extended the provisions of the act of 1849 to personal property owned by her at the time of her marriage. A seventh, in 1856, extended the provisions of the act of 1849 to patents, copyrights, pensions, and grants and allowances by government. Another, in 1857, extended the provisions of the act of 1849 to property acquired during coverture *by gift*. Another, in 1860, extended the act of 1850, respecting property acquired by her personal services, to reinvestments of the same. And so the law stood when the transaction in question took place, and until 1865, when the provisions of the act of 1845 were extended to real estate acquired during coverture by gift or purchase; and 1866, when those of 1849 were extended and applied to all her personal property, whether acquired before or after marriage: and the policy was fully carried out and completed."

Nevertheless, this policy, thus declared to have been fully carried out and completed, was neither complete nor consistent, except for the special purpose of depriving the husband's creditors of any recourse against all property, the use or enjoyment of which might come to him by the marriage, even though the credit thus gained by him might alone have enabled him to incur his debts. It did not reserve to the wife a separate or independent estate in her own lands, for it left in the husband his common-law estate in them during the coverture, and also his curtesy or life-estate in them if

*36 Conn. 10.

he survived her after the birth of a child, while during the life of the wife *and of such child*, his creditors could not touch either. It did deprive the husband of his absolute common-law right to all her personal property in possession, by vesting it in him as trustee for her benefit, but still left it in his possession and control: thus again secured against his own creditors. Indeed, the Connecticut law-makers do not seem to have thought it complete; for another statute was passed in 1869, and still another in 1872, and at the general revision of the statutes in 1875, it was again amended. Very pertinent is Mr. Bishop's comment, that "it is almost impossible, while the legislation of a State is progressing thus, that the courts should do much by way of interpretation to render the law stable and known." Nor has this embarrassment of bench and bar been by any means confined to that State.

Resuming the history of the general movement, it is possible here barely to mention the order in which other States followed the example thus set. A volume would be needed to recount the various steps and degrees by which it went forward, year by year.

Between 1846 and 1850, inclusive, the following States began to enact laws changing or setting aside the common-law rules of marital property rights, namely: Vermont, New York, Pennsylvania, North Carolina, Alabama, Tennessee, Wisconsin, and California. Between 1850 and 1860, similar legislation was begun — in some of them boldly, in others very gingerly — in Indiana, Missouri, New Jersey, Oregon, Kansas; followed by Ohio and Illinois in 1861, and by other States successively in subsequent years. In 1869, Congress enacted, for the benefit of married women in the District of Columbia, one of the most radical of the laws on this subject. Under it, a married woman in that District, as to her property, and her power to contract independently of her husband, to sue and be sued, to grant, convey, and devise, has, in effect, all the legal rights and powers of a single woman.

The last State to fall into line was Virginia — noted by Mr. Bishop in 1875 as the only State then adhering to the common-law system without change. But in 1877 Virginia enacted, in substance, that all property, real or personal, which any married woman might own at, or acquire after, her marriage, including property acquired by her as a sole trader, — the law thus enabling her to carry on business on her own account, — shall be her separate property, free from the disposal and debts of her husband,

with power in her to make contracts, sue and be sued, and dispose of her estate by will, as if she were unmarried. Scarcely a vestige of the husband's marital property rights at common law remain, except his estate by the curtesy in her lands, — for which, somehow, so many of these new laws show a conservative regard, — and the requirement that he shall join in any contract in reference to her real or personal property other than what she may acquire as a sole trader; though this last is so far from being an absolute veto-power on his part, that if he refuse to join in a deed for conveying her real estate, she may be empowered to convey it alone by a court of equity, in its discretion.

The latest of these acts which has come to the writer's notice is a short but radical enactment by the last Legislature of Mississippi. If newspaper statements of its provisions may be trusted, — no authentic version of its text being within reach, — its effect is to destroy in that State the last trace of the common-law theory of marital property rights, at least in respect of future marriages, and to make the wife henceforth as absolutely independent of her husband in that regard as if she remained a *feme sole*, without even a recognition of possible dangers to the community or to the domestic welfare of the parties, which other States have sought to guard against.

It appears from the abstract of the statutes of the several States and Territories on this subject in force in 1878, given in Mr. Wells's treatise on the "Separate Property of Married Women," — and which, though condensed to the utmost, and without a word of comment, fill seventy solid octavo pages, — that laws had, up to that date, been enacted in thirty-seven States, in six Territories, and by Congress for the District of Columbia, which more or less, and in some cases entirely, departed from the common-law system of marital rights, by new rules intended for the benefit or protection of married women. In California, indeed, the common law never prevailed, though in 1850 its provisions were adopted to a certain extent; and the same is true of Texas.

In Louisiana, as already stated, the common law never prevailed at all; and its peculiar system, based on the civil, or Roman law, cannot be discussed here. Hardly any two of these numerous enactments agree in their details, even where they have equally departed from the common-law system; and statutes apparently similar have been in some respects differently construed in different

States. But there are certain leading features common to many of them, which may be briefly stated, as indicating the purpose and tendency of this legislation in general:—

1. The property owned by the wife, real and personal, as to the *corpus* or principal thereof, in perhaps most of the States, does not vest in the husband by virtue of the marriage, nor any estate or interest therein, but remains the property of the wife as though she were unmarried, free from the husband's control and from liability for his debts; though in some States the husband's estate at common law is simply clipped of its advantages, in others, he is made her trustee. In nearly all of them she is entitled absolutely to her own earnings; though in some, only if paid to herself; in others, when so ordered by the court, for abandonment or misconduct of her husband.

2. As to the use of this property during the marriage, there is greater discrepancy. In some States, — as, Connecticut, Alabama, Kentucky, Texas, and perhaps others — the husband is still entitled to its management, and to receive its income; in others, the statutes expressly take it away from him; in others, it is a question yet to be determined by the courts how far the common law on this point is repealed by implication.

3. In general, these statutes permit married women to make contracts independently of the husband. But here, again, discrepancies appear: some statutes permitting her the largest liberty, including the power to form business partnerships and to contract directly with her husband, while others permit her to contract with third persons in general, but not to form partnerships, and not at all with her husband. Nevada indicates the true difficulty as to this last point, in providing that husband and wife may contract with each other as if unmarried, subject to the general rules controlling persons occupying relations of trust and confidence.

The well-known rule in equity in such cases is, that whenever the relations between two persons are such that one of them has or may have a controlling influence over the other, and a transaction occurs between them whereby the former is pecuniarily benefited, such transaction is presumptively fraudulent from the mere relation of the parties, and will be set aside in equity unless fraud is disproved. This law adds the relation of husband and wife to the list. It is for the courts to say whether the rule, in such cases, is to work both ways; or whether they will presume that the husband

has overreached the wife, but never that the wife has outwitted the husband. In Minnesota, the peculiar provision exists that husband and wife can make no contract with each other relating to any interest in real estate, nor give to the other a power of attorney to convey such interest; but as to all other matters they are at full liberty to contract as though the marriage did not exist, and the wife may make with third persons any contract which she might make if unmarried.

4. As to the right of the wife to become "a sole trader," — that is, to carry on business on her own account, — important differences exist in the various statutes. In Colorado, for example, that right is given to her without restriction, without regard to her husband's consent, and without notice or publication of any kind. In Kentucky, she must first get authority from the court, on petition to which her husband is a party, public notice also being given, and any creditor may come in and resist; and the court must be satisfied that neither husband nor wife intend thereby to cheat, hinder, or delay creditors. In North Carolina, she must first obtain her husband's written consent. In Massachusetts, she must first file a certificate with the town clerk, stating her husband's name and the place and nature of the business. In California, also, a public declaration must be made. In some States she can be a sole trader only when not residing with her husband — as, while her husband abandons her, or if he is in the penitentiary, or resides in a different State. In Rhode Island, the statute forbids married women to transact business as traders. Such differences indicate the widely discordant views held as to the effect of such a privilege upon the relation of husband and wife, the opportunity and cover for fraud which it affords, and the safeguards necessary both for the individual and the community.

5. In general, these statutes relieve the husband from liability out of his own estate both for the debts of the wife and for damages for "torts" or civil wrongs committed by herself; though there are exceptions to this, growing sometimes out of the language, and again out of the interpretation of the law. In Minnesota, her separate estate is liable for her torts, but the husband is also liable for them. In New York, a statute providing that the wife may "sue and be sued in all matters *having relation to her separate property*, the same as if she were sole," was held not to repeal the husband's common-law liability for civil wrongs committed by her

not relating thereto; and the wife having published a libel, the husband was held responsible in damages jointly with her — whence it would seem that in New York a married woman's tongue is no part of her separate estate.

6. In respect of the common-law prohibition of either husband or wife testifying for or against the other (except as above stated), most of the States have made no change. But in Colorado the wife may testify for or against the husband in any suit growing out of a partnership, either with him or with third persons, of which she is a member. In Maine, either may be a witness in any civil or criminal proceeding, provided the other consent. In one or two other States either may testify, except as to communications passing between themselves when no third person is present.

7. In nearly all the States a married woman can now make a will as if unmarried; though in some, only under certain restrictions—as, if her husband consents, or subject to his curtesy rights, or when abandoned by him. In Colorado, she cannot devise away from her husband, without his written consent, more than half of her property; in Kansas, a similar restriction applies to the husband as well as the wife; in Montana, a devise by her to any church or charitable institution requires his written consent.

These provisions, taken almost at random from the mass of such statutes, illustrate the variety as well as the extent of the legislative experiments under consideration.

But it is characteristic of all these statutes, with a single exception, and that a partial one, that they leave untouched the duty which the common law imposed upon the husband—to support the wife and children out of his own estate. The Nevada statute does provide that if the husband cannot support himself, the wife must support him out of her separate property; and if she becomes a sole trader,—authority for which she must obtain by application to the court, under oath,—she, as well as the husband, is held liable for the maintenance of her children. These provisions seem intended, however, to prevent pauperism quite as much as to cherish domestic relations. With this exception, the husband's duty remains in all cases as at common law; and in those States where the old notion of the unity of husband and wife is most thoroughly exploded, the wife is so far enabled, in virtue not of his voluntary contract, but of positive law, to say to her husband, "What's yours is mine; what's mine is my own." Doubtless, in

some States, the common law theory survives in part, at least, namely, that the husband, who is bound under all circumstances to support his wife, and who, as the head of the family, is entitled to control and direct his expenditures, may fairly claim to add his wife's income and available means to his own for the common benefit: as in Kentucky, where the husband, so long as he lives with and supports the wife, is still entitled to the use and profits of her real estate and chattels, under certain restrictions; or as in Connecticut, where he is made her trustee by statute, with the right to receive and enjoy the income of her estate so long as he takes care of her, but not to dispose of the principal without her written assent; or as in Alabama, where also the law makes him her trustee, entitled to collect and use her income, but not to dispose of the principal except jointly with her, and always liable, on her suit in equity, to be removed from the trust if he becomes, from any cause, unfit to fulfil it. Provisions like these are undeniably improvements on the common law. They preserve its true aim and spirit while restraining its abuses. But they do not represent the general tendency of the new legislation, nor carry out that enlightened policy which, to quote Mr. Bishop's not very friendly description,—

". . . yields to wives the double advantages of matrimony and single bliss, and lifts from the shoulders of their husbands none of the burdens borne when the law gave them compensatory advantages. It remains only [continues that vigorous writer, speaking of the advanced legislation of a particular State] to add a provision compelling every young man to marry instantly the girl who chooses him, and the end of domestic woe will have come. Then she can have—as she can have now, if the man will submit to the marriage—for her sole and separate use, to accumulate till her husband dies [or, Mr. Bishop might have added, if she died before him, to transmit to her children, by way of diminishing at once their dependence on their father and his control over them as they grow up], all that she owned before marriage, all that comes to her afterwards, and all that she can acquire by her labor and skill; and he provides for her house-room, meals, clothing, and the other necessaries of life. If she chooses, she may employ her time with domestic cares; or, if she chooses, she may leave her babes for him to look after and nurse, and her meals for him to prepare with his own, while she engages in business on her separate account, and accumulates money—not a cent of which, or its increase, is she required to appropriate to the support of her family, or even of herself; all must be borne by the husband."

It may be said that this picture is overdrawn, because it is unlikely that any woman would so abuse the privileges which the

law intends solely for her protection. Nevertheless, these are quite within the possible results of such legislation, and by them it is rightfully tested.

It is obvious that the actual significance and tendency of these statutes is to be measured not so much by the immediate effect of this or that provision, or the existence of this or that evil under the old law which it is designed to prevent, as by the extent of its departure from that conception of marriage as a *status*, and of the relation to society and to each other of those who enter into it, upon which the old law was based.

It is not within the scope of this paper, conceding freely that the common law was not, as its disciples once termed it, the perfection of human reason, to announce a scheme for making it such. In the days of the French Directory it was said that the Abbe Sieyès always had a complete Constitution for France in his pocket, brand-new and ready to be promulgated entire; but it is not recorded that any of them were found to work. That some of the modern statutory solutions of our problem ignore its essential conditions, seems clear. If the common law erred in assuming that all husbands will always be provident and unselfish, always the stronger and the wiser, and always gentle in their strength, it is scarcely a better law which would invite every wife to regard and treat her husband's interests as separate and distinct from her own, and increase the temptation to those completely selfish strifes, proverbially bitterest among persons most nearly allied. It can hardly be wholesome or wise for the State to inculcate, by general and positive law, the doctrine that whatever burden the husband may bear, the wife should be privileged and protected from sharing: that she may judiciously postpone family cares and duties to the ventures and anxieties of a sole trader, or prudently relieve the tedium of the domestic partnership by a business alliance with some shrewd capitalist. Certain it is that no legislation can elevate or purify society which even remotely tends to impair the sacred confidence of the marriage relation, or to destroy its unity and peace by suggestions and temptations most adverse to that loving and unselfish spirit which, alike for husband and for wife, converts into blessings even the burdens jointly borne.

THE GERMAN SOCIALIST LAW OF OCTOBER 21, 1878.

BY HENRY W. FARNAM, OF NEW HAVEN.

(Read Thursday, September 9.)

On the 11th of May, 1878, an attempt was made upon the life of the Emperor of Germany. Hödel, the would-be assassin, who had chosen as the scene of his exploit the most crowded street in Berlin, and as the time a pleasant Saturday afternoon, was promptly seized and brought to trial. He turned out to be a young man, under twenty-one years of age, who had begun life outside of the law, who had stolen in his early youth, and whose aimless assault on a venerable soldier of eighty-one was but the fit finish of a vagabond life. The evidence in his trial showed that he had been at one time a member of the Social-Democratic party, but that he had been shortly before expelled, and had since acted as colporteur for the Christian-Social party, in Berlin. Not even the zeal of the Prussian police could ferret out any accomplices. Hödel seemed to have planned and committed the assault on his own responsibility, chiefly from motives of personal vanity. The Socialist party, of course, disclaimed all connection with the attempt.

The Emperor's escape called forth enthusiastic expressions of loyalty from all quarters, mingled with hardly less vigorous denunciations of the wretch who had dared to raise a hand against him, and of the party which, though this time innocent, had not hesitated on other occasions to applaud the use of powder and petroleum in politics. Prince Bismarck took advantage of the excitement, and brought promptly before the Federal Council the draught of a law against the Socialists. This bill was accepted, with some few modifications, almost unanimously (Bremen and Hessen alone opposing), and presented to the German Parliament May 20th. But the Chancellor had overestimated the reactionary wave. The very first article of his bill was rejected by a vote of 251 to 57, May 24th. The Government declared that it considered further deliberation useless, and the same day an imperial order adjourned the Reichstag.

On the 2d of June there was another attack on the Emperor, at the hands, this time, not of an outcast of society, but of a Ph.

D., a man of good family and education. Nobeling had accordingly been scientific in his plans, and, by using a shot-gun and firing from a window, succeeded in wounding his victim. He himself was fully prepared for the consequences, and put a bullet in his own head, as soon as an attempt was made to break into his room and seize him. Soon after reaching the police-station he lost consciousness, and lay until his death, September 10th, in a condition which prevented any thorough examination. The researches of the police failed, as in the previous case, to discover any accomplices.

June 11th Parliament was dissolved, and a new election ordered for July 30th. The new House, which met September 9th, showed a loss to the three liberal (National-Liberal, Liberal and Progressive) parties of forty-one members, and a gain to the two conservative (Conservative and Free-Conservative) parties of thirty-eight. The Socialists lost three. A new bill against the Socialists, which was presented on the first day of the session, was passed, with a few amendments, by a vote of 221 to 149, October 18th, and Parliament was adjourned the same day.

We thus have the strange spectacle of a constitutional legislature, elected by direct and universal suffrage, passing a law against the doctrines of a political party, represented in its own body by nine members, and controlling, even in a period of intense popular prejudice, 117,893 votes, or seven per cent. of the whole number cast. It is this fact that gives the law its peculiar character, and distinguishes it from other suppressive measures, such as the German law of July 4th, 1872, against the Jesuits, or the French law of March 14th, 1872, against the International. We must, therefore, preface our account of the act itself, and of its bearing upon German constitutional rights, with a statement of the present position of the Social-Democratic party in Germany.

I.

The name *Social-Democratic* implies two elements in the doctrines of the party, one economic, the other political. Its political aim has always been a republic, with universal suffrage, and, as far back as 1848, Lassalle declared before the Düsseldorf jury: "I shall always, gentlemen, acknowledge with pleasure that, in my innermost convictions, I stand on decidedly revolutionary ground; that, in my innermost convictions, I have the honor to be a partisan of

the Social-Democratic Republic." And yet, after the settlement of the constitutional contest of 1848–50, and after the withdrawal from Germany of Engels and Marx, the attempts to change the form of government so lost their significance that a doubt has recently arisen as to Lassalle's real position, and Prince Bismarck has even asserted in a speech in Parliament that he was not a Republican at all, but strongly monarchical in his views. Republicanism has thus gradually dropped into the background, and the question of universal suffrage, which was one of the chief elements in Lassalle's agitation, has ceased to be an issue since its adoption by the German Empire. So that, although the Socialists are still Democrats, and call loudly in their programmes for a free *Volksstaat*, or Democracy, their political designs have been greatly obscured by issues of more immediate practical significance.

All the more absorbing and interesting are their economic and social teachings, which now form the staple of their agitation, and among which Marx's theory of capital is the most far reaching. By restricting his definition of capital to circulating capital, or capital in the form of general purchasing power, and by the skilful use of abstractions, Marx reaches the conclusion that capital, instead of being, as is usually assumed, the result of saving, or abstinence, is, in reality, formed in the beginning only by forcibly taking from the laborer what he has himself produced. Once formed, capital has the quality of perpetuating its kind by the same process by which it was itself created; thus the profit on capital is simply a part of the product of the laborer's toil, forcibly withheld. The practical corollary of this philosophical explanation of capital is, of course, the demand that the profit on capital be done away with; and, as no individual capitalist would consent to give the use of his property without return, that all capital be put into the hands of the State; consequently, all the means of production which capital commands.

Lassalle adopted Marx's theory *en bloc*, and tried to explain it to the masses in his little book entitled "*Herr Bastiat-Schulze von Delitzsch*." But he also made an original contribution to the Socialist theory, when he developed to the working men of Leipzig the "Iron wage law." The law itself is not Lassalle's discovery; it is simply the law stated by Ricardo, when he says: "The natural price of labor is that price which is necessary to enable the laborers, one with another, to subsist and to perpetuate their race." But

Lassalle invented the name, and that is often of as much importance in practical politics as the principle. He brought the law, moreover, into a very ingenious connection with Marx's theory of capital. For, overlooking the fact that it is entirely based on the operation of Malthus' law of population (as has been well pointed out by President Woolsey), and assuming that it depends upon the competition of laborers for the money which capitalists hold, and the consequent reduction of their wages, he argued that their wages will always remain at the minimum, so long as this competition exists; that is, so long as the capitalist, who possesses the general purchasing power, is able to retain a part of it for himself. In order to secure for the workingman the surplus over and above what is necessary for the support of life, the total product must be divided among the producers; that is, capital must cease to be held by private individuals. This proposition, which Marx based mainly on a philosophical theory, was thus buttressed up by considerations of practical utility.

Lassalle's plan for productive associations, founded on the credit of the State, which he brought forward as a temporary expedient, is now discarded by his followers. But his general demand for the abolition of the wage-system has been for many years one of the chief planks in the economic part of the Socialist platform.

In religion the Social-Democracy is, generally speaking, infidel. It has usually avoided the religious question from motives of policy, and its only official utterance on the subject was given at the congress of 1872, in Mayence, when members were advised to formally leave the church, inasmuch as they had practically broken with all religion by accepting the Socialist programme. This point has not been brought up in convention since, but the agitation (started two years ago) in favor of a general withdrawal from the Church leaves no doubt about the sentiments of the leaders of the party.

The exaggeration which characterizes all the views of the Socialists makes their position comparatively isolated. The line between them and all other political parties is broad and unmistakable. And yet the fact that their demands and theories and, above all, their criticisms extend over so wide a field, gives them a large amount of indirect support from various quarters. The members of a large and influential association of economists have even received the nickname "Kathedersocialisten," or "Professorial

Socialists," from their willingness to admit the justice of the Socialist criticisms upon the extreme individualism of the Manchester school, and from their efforts in favor of greater activity of the State in industrial matters. The association is, in point of fact, far from socialistic. The measures it has advocated during the eight years of its existence, such as the encouragement of trades-unions, the restriction of female and child labor, the regulation of employers' liability for accidents, etc., have, generally speaking, not only kept within the traditional bounds of governmental activity in Germany, but have even been borrowed in many cases from that home of industrial freedom, England. But the desire of this new school to regard all institutions in the light of history, and their acknowledgment that every form of industrial organization has only a relative justification, so that what is beneficial at one epoch may be most disastrous at another, have done much to mitigate the holy horror that the ordinary Philistine has of everything bearing the name Socialist. The practical application of these principles by some members of the extreme left, with regard to the railroad and land questions, has done still more towards popularizing some of the Socialist teachings.

More recently the Social-Democrats have received an unexpected ally in the Christian-Social Workingmen's party. This party, unlike the Professorial Socialists, is really and professedly socialistic. It aims not only generally at the welfare of the proletarian, but it aims at it through a revolution in the present industrial system, a revolution which would end by placing the most important means of production in the hands of the State. It acknowledges that it wishes to counteract Socialism by meeting it half way. What chiefly distinguishes it from the genuine Socialist party is its religious and monarchical basis. It was founded and is managed by clergymen, who hope by this means to bring back the masses to the fold of the Church and to a reconciliation with the Monarchy *Dei gratia*. The party has had all kinds of ill luck. As one of the first effects of its agitation, the Socialists started a counter-agitation in favor of leaving the Church *en masse*. The party had hardly been in existence six months, before the first attempt was made on the Emperor's life by a man who had worked in its employ. The public meetings held by the party have been so tumultuous, and the efforts of the well-meaning

and really eloquent minister who stands at its head have met with so much insult and abuse, that this means of making converts has had to be abandoned.*

Yet in spite of the ridicule cast upon the movement, its official organ has appeared regularly for nearly three years, its leader, Dr. Stöcker, has retained his position as preacher to the court, and even the Socialist Law has spared the publications and meetings of the State Socialists. The belief in Berlin is general, that the organization derives both encouragement and pecuniary support from people who stand very near the throne.

It is hardly necessary to mention among the props of Socialism the general freedom of philosophical and religious thought throughout the educated world, and especially in Germany. The levelling effect that the evolution theory has had on old prejudices has undoubtedly encouraged speculation on social topics, and speculation on the part of untrained minds is very liable to result in grotesque and extreme conclusions, especially in sciences in which theories cannot be readily subjected to the test of practical application.

A factor of more immediate and especial moment in the growth of Socialism has been the industrial development of this century, with its accompanying legislation. The comparatively late period at which production on a large scale and by steam power was introduced into Germany, and the tardiness of the German states that did not come under the direct influence of Napoleon to abolish the guilds, made the change sudden and violent. The removal of the vexatious restrictions put upon change of domicile; the introduction of general freedom of trade and of the press; followed, at a comparatively short interval, by a complete change in the political equilibrium of Germany, and the creation of a real Fatherland with a metropolis as its capital, set people in motion, and induced the peasantry to flock in large numbers into the cities. The introduction of universal suffrage made it easier for ambitious men to become leaders of the people. In short, the whole liberal legislation of the last thirty years, and in particular of the last fifteen, has assisted the growth of a popular radical party. Finally the

* At the time of going to press the meetings have been resumed, but have been principally used to further the Anti-Jewish agitation, of which Dr. Stöcker is one of the chief promoters.

sudden speculative fever after the payment of the French war indemnity, followed by the crisis of 1873, gave a sudden and great impetus to a party which had almost died out in consequence of its unpatriotic action during the conflict of the years 1870–71.

These are some of the external causes of the growth and power of the Social-Democratic party. The greatest element of strength it has had in itself has, undoubtedly, been its organization. This party has arisen, we must remember, not in consequence of a division of public opinion on some important political question of the day; on the contrary, it has grown directly out of a number of workingmen's societies, which decided, on the basis of questions spontaneously brought forward by themselves, to turn themselves into a political party.

The first of these was the General Workingmen's Association, founded in May, 1863, by Lassalle. It was distinguished at the outset by being an opponent of the Progressive party. The chief objects for which it strove were universal suffrage and productive associations based on the credit of the State. Lassalle died the year after its formation, but the society, which had grown but slowly at first, flourished under the skilled leadership of Schweitzer. It was characterized throughout its career by its devotion to national interests and by its centralized organization, both legacies of Lassalle.

In 1863 another organization was formed, called the Federation of German Workingmen's Associations. This was at first led in the interest of the Progressive party, and opposed Lassalle. But as it advanced, it came more and more under the influence of Marx's teachings. Its governing board declared itself in 1866 opposed to the Progressive party, and at the congress of 1868 it formally gave its assent to the doctrines of the Internationale. Bebel and Liebknecht, who were now the leaders of the Federation, called a general convention of Socialists to meet in Eisenach in August, 1869, chiefly with a view to destroying Schweitzer's influence in the General Workingmen's Association. They failed in this, but they succeeded in detaching a number of his followers, and in forming with them the German Social-Democratic party. The other Lassalleans continued their separate organization until the Gotha convention of 1875, at which they too joined the ranks of the Socialist party.

This origin of the Social-Democratic party has left its marks

plainly upon the organization. The whole party forms, as it were, one society, which does not merely meet before elections, but is in constant activity. Its members pay a monthly tax of two and one-half cents; its officers are constantly at their post. The highest authority is the annual congress. The running administration is carried on by a board of five, chosen by the members residing in the place which the congress has designated as the party headquarters. This board is subject to the supervision of a committee of eleven, similarly elected in some other town; it must open its books for their inspection, and is liable to be suspended by them, either in whole or in part. The third and greatest power in the party is the official organ, which is under the superintendence of the governing board. At the passage of the Socialist Law its location was at Leipzig, its editor Liebknecht. As the laws in most German states prohibit political societies with branches, as well as federations of local societies, the Social-Democratic party can not have a permanent organization for its branches. The manner in which it evades these provisions is, however, a source of strength rather than of weakness. It appoints for each town in which any of its members reside a confidential agent, who is expected to call a meeting of the members once a week; he is responsible for the necessary declaration to the police, who cannot forbid such a meeting, if notification is given twenty-four hours beforehand. The officers must be chosen anew each time, as there can be no permanent organization. The result is obvious. Back of the apparently unorganized band of Socialists there stands the confidential agent as the representative of the governing board, and thus a centralization is given to the party, which a more liberal government policy would probably destroy.

With the aid of constant agitation carried on under this organization, and favored by the financial distress of the country, the principles which seemed so thoroughly discredited in 1870 have made rapid strides. The party's representation in Parliament, which numbered two in 1871 and nine in 1874, rose to twelve after the elections of 1877, backed by a vote of 493,288 on the first ballot or nine per cent. of the whole number. In 1877–78, forty-four political newspapers, one illustrated journal, a monthly and a semi-monthly scientific review, two comic papers and fourteen trades-union publications assisted the official organ, "Vorwärts," in the work of making converts. Fifty editors, of whom twelve

had had a literary education, gave their time to the cause. The subscriptions to the "Vorwärts" were soon after its foundation 12,000, to the other papers, together, over 100,000. At the elections of 1877, the income of the Central Campaign Committee amounted in eight and a-half months, to 54,217 marks, or in round numbers $13,500, and this sum was not a quarter, as the Socialists affirm, of what was spent on local objects. 1,346,145 campaign documents were distributed, generally gratis. As far back as 1876 the party claimed to have at its disposal over one hundred and forty-five trained and experienced speakers.

Such were the principles, the position and the strength of the Social-Democratic party, when two of its adherents conceived the insane idea of assassinating the Emperor of Germany.

II.

There is no doubt that the elections of July, 1878, reflected the popular feeling of the time. Many who sympathized more or less with theoretical Socialism, had long been disgusted with the coarseness, the abuse, the blasphemy, with which the practical agitation was carried on, and many sober-minded men felt that the attempts on the Emperor's life, though not directly traceable to the Social-Democratic party, were in great part due to the general demoralization which the Socialists fostered. There was a general feeling that the party ought to be put down; there was doubt only as to the means of doing it. The most practical method seemed to consist in preventing the spread of Socialist doctrines, by cutting off the means commonly employed to circulate them. The Socialists made their influence felt, as we have seen, through their organization as a society, through public meetings, through the circulation of printed matter, and through the collection of money. It was therefore decided to prohibit these four aids to proselytism. Finally, to provide against all contingencies (for it must be remembered that, at the time, the average voter scented an infernal machine under every paving-stone), the extraordinary power was conferred upon the State governments of proclaiming something like martial law, for a definite period, in places that seemed especially exposed to danger.

Let us examine the law in detail. Article I. says, that "Associations which, by means of social-democratic, socialistic or communistic designs, aim at the overthrow of the existing order of

State or of Society, are to be prohibited." The same prohibition applies to associations in which the designs just mentioned, though not the object of the society, appear in such a way as to "endanger the public peace, in particular the harmony of the different classes of the population." That is, if any association (an insurance company, for instance, or a bank, or a coöperative store) occupies itself with socialist principles in such a way as to disturb the public peace, it must be prohibited. The same applies to registered coöperative associations and to registered associations for mutual assistance, with the provision that the especial laws (of July 4th, 1868, and April 7th, 1876,) which regulate the closing of such societies, remain in force, and give them the benefit of a less summary procedure. Independent beneficial associations are not to be closed at once, but put under the supervision of the State, unless a persistent desire to violate the law makes a dissolution necessary. The property of such an association is to be used, after payment of its liabilities, as its constitution or as the general principles of law may determine.

The interpretation put by the police authorities upon the phrases *social-democratic designs aimed at the overthrow of the existing order of the State or of Society* and *endanger the public peace*, has been a wide one. The mere fact that Social-Democrats stand at the head of a coöperative association, or a society for mutual assistance, is considered — it has been asserted in Parliament — sufficient proof that the society in question aims at the overthrow of State or Society.

With regard to meetings (in which are included public celebrations and funeral processions) the law is brief. It makes the simple distinction between those that are and those that are to be. The former are to be dissolved, if social-democratic, socialistic and communistic designs, aimed at the overthrow of the existing order of State or of Society, appear in them; the latter are to be forbidden, if there are facts which make it probable that they are intended to further such designs. An amendment to the Government's bill, excepting from this prohibition meetings held to consider elections for the Parliament or State Legislatures, was lost.

Printed matter which furthers the social-democratic designs mentioned above is to be prohibited, and, if the publication is periodical, even its future issues may be forbidden, after the seizure of one number is confirmed. Such prohibition must be sent with reasons

annexed to the publisher, and, in the case of non-periodical publications, to the author as well. All the copies found in the place of issue are to be seized (if necessary, also the plates, dies, etc.,) and to be made unfit for use, as soon as the prohibition is final. Such prints, plates and dies may even be seized temporarily by the police, before any prohibition has been issued, but must be surrendered, if this is not ordered within a week. A liberal use of this power has been made by the police authorities throughout Germany. No less than 533 publications had been seized from the passage of the law till June, 1880.

Collections of money made for the purpose of furthering the social-democractic designs mentioned above are to be prohibited by an order of the police. This clause has been interpreted by the lower magistrates as applying to collections made to assist the destitute families of Socialists expelled from Berlin, but this view is not sustained by the superior authorities.

Those who violate the police orders issued in pursuance of the law are liable to punishment according to the case, the fines rnnning as high as 1,000 marks, and the imprisonment up to one year. A knowledge of such police orders is not made a condition of the punishment. It is sufficient that the order be published; ignorance of it is regarded as culpable negligence. In the case of illegal collections, the money so raised is to be forfeited to the fund for the poor of the town in which the collection was made. Especial and severe punishments are meted out to those who, as the law has it, make a business of socialistic agitation. This applies particularly to innkeepers, retail dealers in liquors, printers, booksellers and owners of circulating libraries and reading rooms, who may be forbidden by a court to carry on their business, in case they couple socialistic agitation with it and are liable to a fine of 1,000 marks, or six months inprisonment, for disregarding such an injunction. Persons who make it their business to circulate socialist publications, or who have been condemned for contravention of the law, may be forbidden to sell publications by the police alone, without the intervention of a court.

The organs for executing this part of the law are the police authorities of the several states and, in the case of foreign societies or publications, the Chancellor of the Empire.

An appeal can be made, in case the prohibition is directed against a meeting or a collection, only to the superior police authority of

the particular state; in the case of publications and societies, a special commission of the Empire is established to receive and act upon all complaints. This commission consists of four members of the Federal Council and five judges of the highest courts, all appointed by the Emperor. It has the right of summoning witnesses and taking testimony like any court, and its members are not bound by the instructions of their respective governments. The object of this commission was to introduce greater uniformity and more ample protection against mistakes of the police in what seemed especially important cases.

The law closes with a general provision against schemes that threaten a more immediate danger than the four means of influencing public opinion treated of thus far. Wherever the intrigues of Socialists promise to endanger the public peace, the cabinet of a state may, with the consent of the Federal Council, decree any of the following measures, to last for not more than one year, and to apply to a restricted territory: That meetings, with the exception of election meetings, shall be held only with the permission of the police; That the sale of printed publications shall not be allowed in public places; That dangerous persons shall be removed from a given district or place; That the possession, the carriage, the importation and the sale of weapons shall be prohibited, limited, or attached to certain conditions. A report concerning such orders must at once be made to the Parliament. The penalty for their violation may be one thousand marks fine, or six months imprisonment. In accordance with this article the Prussian ministry issued, on Nov. 28th, 1878, an order allowing the police authorities to banish from Berlin and certain places in its neighborhood persons from whom a disturbance of public order might be feared; prohibiting the carriage of weapons in those places, except in certain well defined cases; and forbidding the possession, importation and sale of explosive missiles. This order was renewed, Nov. 28th, 1879, and has caused the removal from Berlin of over one hundred persons.*

The Socialist law was originally passed for three years. The law of May 31st, 1880, extended its time to Sept. 30th, 1884, and

* More recently a similar order has been issued, dated Oct. 28th, 1880, for the territory of the city of Hamburg, in consequence of which a number of expelled Socialists have taken refuge in this country.

added an amendment, protecting from its operation members of the Parliament and State Legislatures. The Berlin police had actually gone so far as to arrest certain Socialist members of Parliament, and to turn them out of the city as dangerous persons, when they came to the capital to perform their legislative duties.

III.

So far the law itself. Let us now inquire how it stands related to the previous legislation and policy of Germany. It strikes its first blow, as we have seen, at associations and meetings. This is a subject-matter which is put into the hands of the Empire by the constitution, but on which no general law has as yet been passed. If we take, therefore, the Prussian law of March 11th, 1880, concerning meetings and associations, as fairly representing the policy of the greater part of Germany, we find that no meeting or society can be prohibited by the police, if the formalities of the law are complied with. All public meetings must be announced to the police twenty-four hours before they are to be held, and any society which occupies itself with public affairs must file a copy of its constitution and a list of its members with the police within three days after its formation; all changes in constitution or membership must be similarly announced. The police authorities are entitled to be represented by two agents in all public assemblies; but they have not the right to dissolve such a meeting, except under three conditions: 1. Failure to give the required notification; 2. Presentation of motions which invite or incite to criminal acts; 3. Presence of armed persons who refuse to withdraw at the demand of the police. Similar principles apply to public associations, which are subject to two further restrictions: 1. No women, pupils or apprentices can belong to political societies; 2. Such societies cannot combine or have branches. These are the principles commonly recognized in Germany.

Now the Socialist Law breaks through all the bulwarks which formerly protected meetings and political associations. It gives the police authorities power to forbid meetings "concerning which the supposition is justified by facts that they are to be used to further the designs mentioned in section 1," viz: "Social-democratic, socialistic or communistic designs aimed at the overthrow of the existing order of State or of Society." What facts are sufficient to justify this suspicion is nowhere stated, but it is

evident that very slender facts will suffice, that practically no facts at all are necessary; for even supposing a prohibition were in plain violation of the law, and as such were reversed by the superior authority, and the meeting allowed, in most cases the occasion for holding the meeting would have passed, the permission would be nugatory. Associations cannot be broken up quite so easily, but in many cases societies which pursued purely business or charitable objects have been dissolved, simply because their officers were Socialists, when there was no proof that they were used for political purposes.

The breach that the Socialist Law makes in the hitherto prevailing policy with regard to the press is even more striking than its violation of the right of free association, because there is a law of the Empire on the subject, which, therefore, has uniform validity for all German states. This law (of May 7th, 1874,) expressly says that neither the administration nor the courts can deprive any one of the right of carrying on any part of the publishing business. The law confines itself strictly to provisions for securing a fair amount of publicity, in order that, in the case of criminal publications, there may be no difficulty in finding the responsible person. For that reason the name of the publisher and printer must be put on all printed matter intended for public circulation, and periodical publications must contain, moreover, the name of the responsible editor. A copy of each number of such periodical publications must also be sent to the police authorities, as soon as issued. Publishers of periodicals are obliged to insert corrections of misstatements made by them, and are forbidden to print certain pieces of information (such as news concerning the movements of troops in time of war, or the indictment in a criminal trial before it has been made public by the courts, etc.), which might endanger the public safety or the free action of the courts. Publications issued in Germany may be temporarily seized, without the order of a court, only when they violate the formal requirements of publicity, or publish dangerous information in times of war, or violate the provisions of the criminal law with regard to treason, insulting the Sovereign, exciting a riot, or circulating obscene literature. And even in these cases the temporary prohibition must be confirmed by a court within forty-eight hours, and the publications must be returned, if this confirmation is not made within five days. Future issues can be forbidden only in the case of foreign periodicals.

Since the Socialist Law, all the guarantees previously provided for the freedom of the press have vanished. A temporary seizure, instead of being carefully guarded by certain strict conditions, is now possible on the vaguest grounds of mere suspicion; the time within which a seizure must be confirmed is not forty-eight hours, but a week; it is not a court which decides, whether a publication endangers the public peace or not, but the superior police officer; and an appeal from his decision must be heard by a semi-political commission, which had, in point of fact, annulled only four prohibitions down to April, 1880. And even this protection is of comparatively slight value in real life, because the appeal does not delay the execution of the order, and, by the time a final decision is reached, the publication will frequently have lost all significance. Thus, when a policeman seized a bundle of printed ballots, which were to be used at an election, on the ground that they were a social-democratic publication, aimed at the overthrow of State and Society, his superiors decided that his interpretation of the law was erroneous, and ordered the ballots returned. Meanwhile the election was over.

Finally, article 28 of the Socialist Law, which provides for a general suspension of individual rights, and allows the cabinet of a state to declare what almost amounts to martial law, in time of peace, deviates more from previous legislation than perhaps any other section. The law which has hitherto regulated this matter (the Prussian law of June 4th, 1851,) allows explicitly the proclamation of martial law only in times of war or riot. The Socialist Law permits the police authorities to turn peaceful citizens from their homes, and to deprive them of their means of livelihood, without even providing for an appeal from the order, or establishing any remedy against mistake or malice.

But the Socialist Law not only reverses the previous specific legislation of Germany, it breaks most decidedly with the whole policy pursued for many years by the North German Confederation and the Empire. Article 77 of the Constitution determines that, in case of a refusal of justice in a state, the Federal Council is to receive the complaint and negotiate the remedy. That is, the Empire represents the cause of individual rights over against the arbitrary action of the police. It was the North German Confederation which introduced universal suffrage; it was the Empire which made the prosecution of public officials possible by removing

the trial from the jurisdiction of administrative organs and putting it into the hands of real courts; it was the Empire which deprived the State attorneys of the monopoly of criminal prosecutions, and allowed the injured person to plead his claim for an action before a regular court; it was the North German Confederation which allowed coalitions and associations of artisans for trade purposes; in short, the Empire has always represented the cause of personal liberty and legal guarantees. The Socialist Law marks a departure (whether permanent or not, can only be decided after the next elections), but a very decided departure, from the policy hitherto recognized.

Observe another interesting feature of this law. It has been customary in Germany, as in France and in our own states, to lay down at the beginning of a new constitution certain fundamental rights, inherent in every citizen, which cannot be taken from him, except in the most extreme cases of public danger. Among these are the rights of personal liberty, of free association, of free expression of opinion, inviolability of the dwelling, etc. When the constitution of the German Empire was formed, it was thought, and with a good deal of justice, that these various rights were, of necessity, so vaguely expressed as to be almost meaningless, until precisely interpreted by specific laws. It was, therefore, thought more practical to leave them out altogether. It cannot, however, be said that they were for that reason disowned or abolished. On the contrary. Inasmuch as the Empire was formed by treaties between the several constitutional states, it must be held that the various rights enjoyed by those states and their subjects remained intact, except where modified by the express utterances of the Constitution, and that, therefore, these fundamental rights, so far as guaranteed by the several states, were tacitly recognized by the Empire, though the Empire is not bound to regard them. The Socialist Law takes full advantage of the omission of the fundamental rights from the Constitution. Freedom of the press and of association, and freedom from domiciliary visits are practically at an end in Germany, and the constitutions which were brought into existence with so much labor in 1848–50 have all been broken through. The absolutism of the Empire has taken one step in advance.

How little individual rights are respected is well illustrated by the treatment to which a German student was subjected last

year. The case was somewhat aggravated by the anomalous condition of the administrative law in Alsace, where it occurred, but is nevertheless significant. The student was visited early in the morning by agents of the police, not in uniform, who said they wished to search his lodgings for forbidden publications. They had no order from any court, and were therefore, even technically, in the wrong. The student consequently refused to give up his keys. A locksmith was called, and his desk opened. The agents took away what private papers, letters, etc., they wished, also a number of books, some of them the property of the university library. Nothing further was done for the time being, but the student began to miss his regular family letters. Upon inquiry at the post-office, he was told that he could get them by applying to the police. For weeks all his letters were opened, before he received them. For months he was deprived of the books which he needed, in order to prosecute his studies. He was forbidden to leave town for a vacation trip he had planned. Finally the matter was dropped, the prosecution fell for want of evidence. If we ask what it was that first fastened suspicion upon him, the answer is simple. His family happened to be scattered at that time, his parents living in Vienna, his brother in Paris, and his sister in Rome. He therefore received regular letters from three capitals. This was in itself serious, but there was more. He was so unfortunate as to have a birthday, and to receive, simultaneously, congratulatory telegrams from three capitals. The zeal of the police authorities needed nothing more; it was evident that in a case like this they must act promptly and with energy. Hence the domiciliary visit, the interception of letters, the confiscation of books. The whole affair was a case of gross stupidity. But what redress did the victim have? He might have applied for permission to prosecute the police officer acting contrary to the law, but he was advised, both by his attorney and by his friends in the faculty, to do nothing, on the ground that, before his application could be acted upon, he would be turned out of the city, and that, whatever the ultimate result, his studies would be completely broken up.

This particular case has been brought up, because the sufferer happened to be one of the author's acquaintance. The proceedings of the Parliament furnish a good collection of similar ones, which show very conclusively, how far the German states are able to protect the so-called fundamental rights, guaranteed in their constitutions.

The time at our disposal does not allow us to discuss the political justification of this measure, but a suggestion as to its real nature and intent may not be out of place. The law is not an abnormal excrescence of legislation, passed under exceptional circumstances, nor is it simply a result of the returning strength of the reactionary parties in German politics. It is exceptional, in having been called forth by the attempts on the Emperor's life, and reactionary, in having been passed by conservative votes; but it is, nevertheless, Prince Bismarck's measure, and fully in accord with his recent policy. We have seen that its two most salient features are its encroachments upon the rights of individuals and its inroads upon the state constitutions. These same marks are found in other important moves of the Chancellor, such as his plan for introducing the tobacco monopoly, his constant attempts to bring the railroads under the control of the Empire, and his more recent endeavors to deprive Hamburg of its exemption from custom duties; and the tendency of all these measures, strange as it may seem, is, to a certain degree, socialistic. They all portend that widening of the power of the state at the expense of the individual which the Socialists uphold, and the Liberals universally condemn. Thus we find that the Government is fighting the Socialists with a weapon borrowed from their own arsenal. The Social-Democratic party has gained rather than lost in the last two years, but whatever its ultimate fate, it must be said that the blow against the Socialists marks a decided advance in the spread of socialist ideas.

IV. THE STUDY OF ANATOMY, HISTORICALLY AND LEGALLY CONSIDERED.

BY EDWARD MUSSEY HARTWELL, M.A., FELLOW OF THE JOHNS HOPKINS UNIVERSITY.

(Read Thursday, September 9.)

Part First.

"Practised architects, before they venture in thought to build a new edifice, to strengthen an old one, or restore a ruined one, first consider carefully and examine closely all the minute parts of such structures. So, physicians, indeed, before they endeavor to care for the human body and preserve it from the diseases which threaten it, ought to know very accurately, and to a nicety, all the parts of that body. Anatomy, the eye of medicine, furnishes such knowledge. Verily, the beginnings, the foundations, and the sources of origin of the medical art are, without the light and vision of anatomy, shrouded in thick darkness; wherefore, it is not inaptly called by Johannes Montanus, the alphabet of medicine." So wrote Rolfincius, in his "Dissertationes Anatomicæ," published at Nuremberg, in 1656.

When we of today seek the origin of this "alphabet of medicine," we turn to the East, whence we are accustomed to derive the beginnings of all our arts; but we find the history of ancient anatomy to be almost a blank page. Priest, and law-giver, and people were all averse to anything like the dissection of the human body. The Egyptians, Hebrews, Greeks, Romans, and Arabs, alike regarded with abhorrence the mutilation of the dead. There is abundant proof of this in their laws and customs touching burial and defilement.

It is said that Democritus, of Abdera (460 B.C.), the friend of Hippocrates, was the first to dissect the human body. However that may be, it is as the Laughing Philosopher, and not as the Father of Anatomy, that he has influenced mankind. It was in what we fondly call "Egyptian darkness," and through the favor of an enlightened despot, that the first school of anatomy was founded at Alexandria, three hundred years before Christ, by Ptolemy Soter. "Braving," says Bouchut, "all prejudices, and considering that the interests of science ought always to outweigh

those of the individual, Ptolemy authorized the dissection of human dead bodies, and himself set the example by beginning to dissect with the physicians gathered around him." Herophilus, and Erasistratus, his pupil, made the school of Alexandria famous and influential; their contributions to anatomy were genuine and considerable. No name worthy of mention, beside theirs, is to be found in the history of anatomy, until we come to that of Mondino, Professor at Bologna, who first publicly dissected in Europe, early in the fourteenth century. Yet, in the interval between the decadence of the Alexandrian school, which followed hard upon the death of its founders, and the rise of the Italian schools of anatomy, Aristotle, Galen, Celsus, and the Arabists, lived and wrote. George Henry Lewes declares that "Aristotle has given no single anatomical description of the least value." Daremberg, Galen's editor and translator, who says he has repeated every one of Galen's dissections, is convinced that he used only the lower animals. Celsus expressed himself as a disbeliever in the utility of human dissection. The medicine and surgery taught by the Arabs, at least so far as its anatomy was concerned, was borrowed from the Greeks.

Previously to the rise of human anatomy in Italy, Galenism, founded on the dissection of the lower animals, notably the ape, dominated the known medical world. Galen had written his "De Usu Partium Animalium," as a prose hymn to the Deity. The hierarchy commended his system, which was upheld as scientific orthodoxy, alike by political and religious authority; all research capable of contradicting his views, was condemned. The first Italian anatomists were quite content to expound Galen. One of the Arabists, Abdollaliph, criticised the slavish dependence of his contemporaries on books. He commended those who, like himself, repaired to burial grounds to study the bones of the dead; but he seems never to have dreamed that anything could be learned from a like scrutiny of the soft parts.

Galenism died hard, even in Italy where it was first attacked. How tenacious it was of life is well shown by Malpighi, who was born in 1628, the year that Harvey first published his "Essay on the Motion of the Heart and Blood." Harvey never saw the passage of the blood through the capillaries; Malpighi discovered those vessels and first demonstrated the flow of blood from the arteries into the veins. Malpighi writes: "In the meantime,

contentions being raised among studious men, especially the younger, both practical and theoretical, and the new doctrines growing daily into more credit, the senior professors of Bologna were inflamed to such a pitch, that, in order to root out heretical innovations in philosophy and physic, they endeavored to pass a law whereby every graduate should be obliged to take the following additional clause to his solemn oath on taking his degree, viz: 'You shall likewise swear that you will preserve and defend the doctrine taught in the University of Bologna, namely, that of Hippocrates, Aristotle, and Galen, which has now been approved of for so many ages; and that you will not permit their principles and conclusions to be overturned by any person, as far as in you lies.'" "But," says Malpighi, "this was dropped and the liberty of philosophizing remains to this day."

It is stated that practical anatomy was taught at Padua, as early as 1151; and also, that in the code made for Sicily, by Frederic II., who died in 1250, there was a law which forbade any one to practice surgery unless he had been instructed previously in anatomy. The statement is also made that public courses in human anatomy were given during his reign; though no documents are cited to substantiate it. There is no dispute, however, that Mondino publicly dissected two subjects as early as 1315; and some writers give 1308 as the date.

We find many bulls of Popes and canons of Councils regarding the study and practice of physic and surgery by monks, from the time of the Council of Laodicea, in 366 A. D., when the priesthood were forbidden to study enchantment, mathematics, and astrology, and the binding of the soul by amulets, till 1215, when Pope Innocent III. is said to have fulminated an anathema against bloody operations in surgery. Although these utterances of the Church are interesting, we pass them by as being outside the scope of this paper.

The edict of Boniface VIII., however, published in 1300, affected the progress of practical anatomy, and is worthy of note. In 1299, Pope Boniface VIII. forbade, under pain of excommunication, any one to boil, cut up, or dry the bodies of the dead. Such an act he characterized as barbarous and abhorrent to Christian piety. Raynaldus, in whose "Annales Ecclesiastici, Lucae, 1749," the edict of Boniface is found, says that such customs "had prevailed in regard to those who, having undertaken a

pilgrimage to the East, died in foreign parts; and in order that their bones might be freed from flesh, and so easily carried about without the fear of corruption. And yet we know," he adds, "that the body of Saint Luke was boiled by his friends." It is hardly probable that Pope Boniface directed this edict primarily against anatomy. Edward I., of England, directed that the flesh should be boiled from his bones and that they should be carried to battle in a bag by his successor, in order to terrify his enemies. The story of Douglas and the heart of Robert Bruce is familiar to all. It is quite likely that Boniface launched his anathema in order to restrain such practices as these; nevertheless, his edict proved an obstacle to anatomical studies. Mondino apologizes for not making the most exact study of the bones of the skull, saying: "the bones beneath the basilar bone are not to be clearly distinguished, unless they be boiled; a sin which I have been accustomed to shun." Hyrtl, the famous German anatomist, holds that the edict of Boniface was in force till 1556, when the Emperor Charles the Fifth, the patron of Vesalius, ordered the question to be put to the theologians of the University of Salamanca, "Whether or not it could be allowed, without violating one's conscience and incurring the suspicion of criminality, to cut up human dead bodies?" "*Et respondisse Universitatem, Licere*," says Rolfincius, quoting a still earlier writer.

That dissection was not universally banned by the Church before the Divines of Salamanca pronounced it lawful, may be seen from the action of Pope Sixtus IV., in 1482. In that year, in a letter addressed to the rector, doctors, and students of the University of Tübingen, Sixtus granted a special and full dispensation to those who should receive the cadavera of certain malefactors executed for capital crimes in accordance with the civil law: "*per justitiam secularem*," is the phrase in the original. They were given permission to dissect and dismember these dead bodies, inasmuch as they desired thereby to render themselves learned and skilful in the art of medicine, provided they would bury in the customary manner such condemned men after they should be dissected and dismembered.

It is claimed that in Prague, as early as the foundation of the University in 1348, the executioners were enjoined to deliver the cadavera of malefactors to the school of medicine. Duke Albrecht IV. imported an Italian anatomist, named Galeazzo, to introduce

the art of dissection into Vienna; where the first anatomical demonstrations before the medical faculty were made in 1404.

In France, as early as 1376, Louis of Anjou permitted the surgeons of Montpellier to take the body of an executed criminal annually for dissection. Charles the Bad, King of Navarre and Lord of Montpellier, ratified this grant in 1377; as did King Charles VI. in 1396; and King Charles VIII. in 1484, and again in 1496. A similar grant was made in Scotland in 1505, as we learn from the following extract taken from the Charter, given by the Town Council of Edinburgh to the Surgeons' Company, July 1, 1505, and ratified by King James IV. in the following year: "And als that everie man that is to be maid frieman and maister amangis ws be examit and previt in thir poyntis following THATT IS TO SAY That he knaw anatomea nature and complexioun of every member In manis bodie And in lyke wayes he knaw all the vaynis of the samyn thatt he may mak flewbothomea in dew tyme. . . . And that we may have anis in the yeir ane condampnit man after he be deid to mak anatomea of quhairthrow we may haf experience Ilk ane to instruct others And we sall do suffrage for the soule." By Act of Parliament, 32 Henry VIII., cap. 42, in 1540, it was granted to the Barber-Surgeons of London to take "yearly forever . . . four persons condemned adjudged and put to Death for Felony by the due Order of the King's Highness, . . . and to make Incision of the same dead Bodies, or otherwise to order the same after their said Discretions at their pleasures, for their further and better Knowledge, Instruction, Insight, Learning, and Experience in the said Science or Faculty of Surgery."

Vesalius, a Fleming, born in 1514, did more than all his predecessors to overthrow Galenism and place medicine upon a rational basis, and well deserves his title of the Father of Modern Anatomy. Yet, despite the concessions we have noticed made by prelates, kings and parliaments to the early anatomists, Vesalius and his students were obliged, in the words of Hallam, "to prowl by night in charnel-houses, to dig up the dead from the grave; they climbed the gibbet in fear and silence to steal the mouldering carcass of the murderer at the risk of ignominious punishment and the secret stings of superstitious remorse." Vesalius began to dissect while a youth in his teens. For a time he studied under the famous French anatomist, Jacques Du Bois, who demonstrated

the anatomy of Galen on the carcasses of dogs. But Vesalius forsook Paris for Italy, drawn thither by the reputation of the schools whence Leonardo da Vinci and Michael Angelo derived their knowledge of human anatomy. Before he was twenty-eight, as has been well said, "Vesalius discovered a new world," and held at one time the professorship of anatomy in the universities of Pisa, Padua and Bologna. He died the victim of the Spanish Inquisition. His inspection, with the consent of the relatives, of the body of a Spanish grandee, whose heart feebly contracted under the knife, brought him before the Inquisition, and would have led him to the stake but for the intercession of the King. Compelled to journey to Jerusalem by way of penance, Vesalius was shipwrecked, in 1564, on the island of Zante. It is said that he there starved to death, and that unless a liberal goldsmith had defrayed the funeral charges, the remains of the greatest anatomist the world had seen would have been devoured by birds of prey.

The Italian schools under Vesalius and his successors, Fallopius, Columbus and Fabricius, exerted a wide and potent influence upon European medicine. This influence was sooner felt and more marked in France, Germany and Holland than in England and Scotland. But we shall confine our attention for the present to the history of anatomy in Great Britain; inasmuch as in the development of anatomy in America, the influence of Edinburgh and London is more readily traced than that of Paris and Leyden.

Twenty-five years after the passage of the Act of 32 Henry VIII., Queen Elizabeth granted to the College of Physicians, of London, the bodies of four felons executed in Middlesex, "that the president or other persons appointed by the college might, observing all decent respect for human flesh, dissect the same." In 1663, Charles II. increased the number of felons' bodies, annually granted to the physicians, to six. The Act of 22 George II., c. 37, 1752, required the dissection or hanging in chains of the bodies of all executed murderers in order that "some further Terror and peculiar Mark of Infamy might be added to the Punishment of Death." The provision of this Act regarding the dissection of murderers remained unrepealed till the passage of the so-called Warburton Anatomy Act, in 1832, while the provision regarding the hanging of a murderer's body in chains remained in force till 1861, when it was repealed.

These were the only legalized sources for the supply of anatomi-

cal material in England prior to 1832. Such provisions might, at first sight, seem generous and ample, yet they were not. We find Dr. William Hunter, in 1763, in vain asking of the King a grant of land sufficient for the site of an anatomical school in London, which he proposed to endow with something like £7,000, and one of the finest anatomical collections in Europe. In his memorial to the Earl of Bute, Hunter writes: "Of the very few who profess or teach this art in any part of Great Britain, London excepted, there are none who can be supplied with dead bodies for the private use of students. They can with difficulty procure only so many as are absolutely necessary for the public demonstrations of the principal and well-known parts of the body. Hence it is that the students never learn the practical part, and the teachers themselves can hardly make improvements, because they cannot have subjects for private experiments and enquiries. Anatomy was not upon a much better footing, even in London, till the year 1746."

In 1832, Parliament passed the Warburton Anatomy Act, which is still in force throughout Great Britain and Ireland — in all its essential features. To understand its significance and that of "Burking," which really caused Parliament to enact it, we must glance at the Edinburgh School of Anatomy.

We have already noticed the grant of anatomical material contained in the charter of the Surgeons' Company, made in 1505. The beginning of the Edinburgh Anatomical School was in 1694; when the Town Council, on the 24th of October, in response to the petition of Alexander Menteith, granted him "any vacant, waste room in the correction house, or any other thereabouts belonging to the Town." Menteith also obtained a grant of "those that dye in the correction house; and the bodies of fundlings that dye upon the breast." The Surgeons' Company were granted, nine days later, "the bodies of fundlings who dye betwix the tyme that they are weaned and their being put to schools or trades; also the dead bodies of such as are stiflet in the birth, which are exposed and have none to owne them; as also the dead bodies of such as are *felo de se* and have none to owne them; likewayes the bodies of such as are put to death by sentence of the magistrat, and have none to owne them." The anatomical theatre of the surgeons was reported finished to the Town Council, December 17, 1697. The Council ratified its grant of 1694, and, the same day, the surgeons chose a committee "to appoint the method of public

dissections, and the operators." In 1705, the Council gave £15 salary to Robert Elliott, the first Professor of Anatomy in Edinburgh. In 1720, the Town Council elected Alexander Monro, *primus*, Professor of Anatomy. In 1725, he removed from Surgeons' Hall to the University buildings, because of the violence of a mob which had attempted to demolish the Surgeons' Theatre, on account of the supposed violation of graves. In 1722, the apprentices of the Surgeons' Company were obliged, in their indentures, to subscribe to "an obligation that they would altogether avoid raising the dead."

Under the Monros, father, son and grandson, who held between them the University Chair of Anatomy from 1720 till 1846, the school became widely famous. Many of the early American physicians and anatomists studied at Edinburgh; where, early in this century, there were several extramural private schools of anatomy. Of these, that of Dr. Robert Knox was the most famous and frequented. In the winter of 1828–29, he had a class of 505: the largest in Europe.

For years the demand for anatomical material had exceeded the legal supply in Great Britain. As early as 1826, Parliament was petitioned, but to no purpose, to give aid and protection to the anatomists, — who were forced to depend on the resurrection men for subjects. Bodies often brought £10 each, in Edinburgh and London; in one instance a subject was sold for £30. When the home supply ran short, the Scotch anatomists were furnished with stolen bodies from England, Ireland, and even France. "The increased demand and higher pay for material," says Lonsdale (Knox's biographer), "generated sad recklessness and brutality. Quarrels arose over the spoils; the jealousy of rival factions of the different schools, and the frequent attempts to outwit each other, led to personal denunciations and a fearful publicity." In response to numerous petitions from the medical profession, a "Select Committee of the Commons," to inquire into the hindrances to the study of anatomy, was appointed April 22, 1828. Its report was rendered on the twenty-second of July, following. In 1788, the Court of King's Bench decided, in the first reported case of the sort, that it was a misdemeanor at common law to carry away a dead body from a church-yard, although for the purpose of dissection, as being an offence *contra bonos mores* and common decency. The Select Committee stated in its report, which was favorable to

the petitioners, that, under the law as then interpreted, there was scarcely a student or teacher of anatomy in England who was not indictable for a misdemeanor; and also that medical men "were liable in a civil action to damages for errors in practice, due to professional ignorance; though at the same time they might be visited with penalties as criminals for endeavoring to take the only means of obtaining professional knowledge." It was not until the following year, when the complaints of the anatomists and the report of the committee had been emphatically endorsed by the "Burking" horrors of Edinburgh, that leave was obtained, on the fourth of May, to bring in a "Bill, to Prevent the Disinterment of Dead Bodies, and for the Better Regulation of Our Schools of Anatomy."

On the second of November, 1828, it was noised about in Edinburgh that a woman had been murdered on All Hallow Eve for the sake of her body, which was found in the dissecting room of Dr. Knox. In the investigation which followed it was discovered that William Hare, the keeper of a low lodging house in the West Port, and one of his lodgers, William Burke, had, within less than a year, committed sixteen murders, and disposed of the bodies of their victims to the teachers of anatomy. The "Burke" method was to suffocate the victim, already dead drunk. Throttling was not resorted to: the nose and mouth were kept tightly closed, and the smothering was soon effected. It was impossible to connect Knox with these villains in any way, except as a receiver of stolen goods for the benefit of the public. Hare turned State's evidence, but Burke was found guilty, hanged and dissected. His skeleton adorns the Anatomical Museum of the University of Edinburgh.

The Bill alluded to above was brought into Parliament May 5, 1829, but was thrown out in the House of Lords a month later. It was not until August 1, 1832, after a long discussion in which Sir James Mackintosh and Mr. Macaulay took part, that the "Warburton Bill for Regulating Schools of Anatomy" was enacted. At this distance in space and time the deliberateness of Parliament seems a trifle strained in the face of such facts as we have stated; but one of the chief glories of the British Constitution is its slow growth, we believe.

The Warburton Act is, with some trifling amendments, still in force. Its effect has been to protect the sepulchres of the dead,

and, in the long run, to furnish an adequate supply of subjects. As, however, Massachusetts anticipated Great Britain by more than a year in legalizing anatomy, in a law based upon the same principles as those embodied in the English Act, we forego any special consideration of the terms and provisions of the latter.

Part Second.

ANATOMY IN AMERICA.

The earliest utterance in America, in recognition of the importance of anatomical studies, seems to have been made in Massachusetts. In "The Cleare Sun-Shine of the Gospel Breaking upon the Indians in New England" is found a letter dated "Roxbury, 24 September 1647," from John Eliot to the Rev. Thomas Shephard of "Cambridge in New England." The Apostle declares of the Indians that "all the refuge they have and relie upon in time of sickness is their Powwaws; so that it is a very needfull thing to informe them in the use of Physick, and a most effectuall meanes to take them off from their Powwawing. Some of the wiser sort I have stirred up to get this skill; I have showed them the Anatomy of man's body, and some generall principles of Physick. I have had many thoughts in my heart that it were a singular good work, if the Lord would stirre up the hearts of some or other of his people in England to give some maintenance toward some Schoole or Collegiate exercise this way, wherein there should be Anatomies and other instructions that way." It is unlikely that the Apostle Eliot added dissections to his lectures on "the Anatomy of man's body;" for later in the same letter he deplores the fact that "our young students in Physick have onely theoreticall knowledge, and are forced to fall to practice before ever they saw an Anatomy made," and says, "We never had but one Anatomy in the Countrey, which Mr. Giles Firman (now in England) did make and read upon very well."

The "first Anatomy in the Countrey" was doubtless made without the warrant of legal enactment; certainly the majority of dissections since then have been so made. The first statutory provision regarding anatomy in America seems to be the Massachusetts Act of 1784, by the terms of which the bodies of those killed in duels and of those executed for killing another in a duel

might be given up to the surgeons "to be dissected and anatomized." In 1831 Massachusetts anticipated all her sister States, and England as well, by legalizing the study of "anatomy in certain cases."

In 1690, Governor Slaughter, of New York, died suddenly, under circumstances which excited suspicions of poisoning. Dr. Johannes Kerfbyle, assisted by five physicians, made a post-mortem examination of the body. The council ordered £8 8s. to be paid the surgeons for this examination. This is usually cited as the first recorded autopsy in America.

It is recorded that Dr. John Bard and Dr. Peter Middleton, of New York city, in 1750 injected and dissected the body of Hermanus Carroll, an executed criminal, "for the instruction of the young men then engaged in the study of medicine." This was thirty-nine years before the State of New York legalized the dissection of the bodies of malefactors executed for arson, burglary, or murder. Though Pennsylvania passed no anatomy Act until 1867, the first American medical school was organized in Philadelphia in 1765, by Drs. Morgan and Shippen, natives of that city. Dr. William Shippen, Jr., a pupil of John Hunter, gave, in 1762, a systematic course of lectures on anatomy. The fee for this course, which is said to have embraced sixty lectures, was put at "five pistoles; and any gentlemen who incline to see the subject prepared for the lecture and learn the art of dissecting, injecting, etc., are to pay five pistoles more." This first course of lectures by Dr. Shippen, which was attended by twelve students, is usually termed the first full and scientific course of anatomical lectures given in America; although Dr. Cadwallader, as early as 1751, made dissections for the benefit of the physicians of Philadelphia, and Thomas Wood, surgeon, in 1752 advertised in the New York papers "a course on osteology and myology in the city of New Brunswick, N. J.," to be followed, in case of proper encouragement, by a course in angiology and neurology, and a course of operations on the dead body. It should also be noted that Dr. William Hunter, educated at Edinburgh under the elder Monro, who came to America in 1752, gave lectures on anatomy and surgery in Newport, R. I., in the years 1754, 1755, and 1756.

Shippen's courses were so successful that in 1765 the Medical College of Philadelphia was organized with two professorships. Dr. Shippen held the chair of "anatomy and surgery;" that of

the "theory and practice of physic" was filled by Dr. John Morgan.

In New York and Massachusetts, as in Pennsylvania, the anatomists were the founders of the first medical schools. The medical department of King's, now Columbia, College was organized in New York in 1767. Dr. Samuel Clossy, an Irishman, who began his course of lectures on anatomy in New York in 1763, was chosen the first professor of anatomy in King's. Dr. John Warren, who from 1777 till the close of the Revolution had served as surgeon-in-chief of the military hospitals at Boston, gave a private course of dissections to a class of medical students in that city in 1780. In the following year he gave a public course of anatomical lectures, the success of which led to the organization of the Harvard Medical School in 1782. Dr. Warren was the first professor in the new school. He was for many years its presiding genius, and held the professorship of anatomy and surgery till his death in 1815. It was chiefly through the efforts of Dr. Nathan Smith, that the Dartmouth Medical School was founded, in 1797. Dr. Smith was appointed "to deliver public lectures upon Anatomy, Surgery, Chemistry, Materia Medica, and the Theory and Practice of Physic." To the Dartmouth school is usually assigned the fourth and final place on the list of American schools of medicine founded before 1800.

Thanks to the efforts of Thomas Jefferson, in 1779, Virginia can claim a place on that list for the medical department of William and Mary College. "I effected in that year, 1779," he says in his autobiography, "a change in the organization of that institution by abolishing the Grammar school and the two professorships of Divinity and Oriental languages, and substituting a professorship of Law and Police, one of Anatomy, Medicine, and Chemistry, and one of Modern Languages." In 1778, Mr. Jefferson drew up a "Bill proportioning Crimes and punishments in Cases heretofore capital." Among its provisions was the following: "If any person commit petty treason, or a husband murder his wife, a parent his child, or a child his parent, he shall suffer death by hanging, and his body be delivered to Anatomists to be dissected." This bill was lost by the majority of a single vote, and Virginia lost the opportunity of passing the first American Act to legalize anatomy in even a small way. Virginia as yet has no anatomy act.

It was brought out in connection with the Salem witchcraft trials, in 1692, that "about seventeen years before," a jury had been impanelled upon the body of a man that died suddenly in the house of Giles Corey, and that the jury, among whom was Dr. Zerobbabel Endicot, found the man "bruised to death, and having clodders of blood about his Heart." This would indicate that a post mortem examination was made in Massachusetts as early as 1675, fifteen years prior to that made of the body of Governor Slaughter, of New York, which is usually cited as the first recorded autopsy in America.

In December, 1692, the province of Massachusetts Bay incorporated the major portion of the English Act of 1604 against witchcraft among its statutes. The history and provisions of this Act are worthy of more than passing mention, because it contains not only the first American, but also the first English, statutory prohibition of the desecration of graves, and indicates full well that the belief in sorcery was a potent factor in popular prejudice against human dissections. In the preamble to an Act for "the appointing of Physicians and Surgeons," passed in 3 Henry VIII., 1511, it is recited that "so far forth were the Science and Cunning of Physick and Surgery practised by ignorant persons, that common Artificers, as Smiths, Weavers, and Women, boldly and accustomably took upon themselves great cures, and things of great Difficulty, in the which they partly use Sorcery and Witchcraft, partly apply such medicines unto the Disease as be very noious and nothing meet therefor." The practice of witchcraft was first made a felony, punishable with death and the forfeiture of estate to the King, in 1541. This Act of the Parliament of 33 Henry VIII. was repealed six years later, in the first year of Edward VI.; but in 1565, the fifth year of Queen Elizabeth, it was reënacted with a saving clause, whereby dower was secured to the widow and inheritance to the heir of the felon. In 1604, the first year of James I., the Act of 5 Elizabeth, as well as that of the 9th Parliament of Mary of Scotland, was repealed, and an Act for "the better restraining and more severe punishing of witchcraft and dealing with evil and wicked spirits," was passed. It contained the following provision, new to the English law: "If any person shall take up any dead man, woman, or child out of his, her, or their grave, or any other place where the dead body resteth, or the skin, bone, or any other part of any dead person, to be employed

in any manner of witchcraft, inchantment, charm, or sorcery, whereby any person shall be killed, destroyed, wasted, consumed, pined, or lamed in his or her body, or any part thereof," every such offender "shall suffer pains of death as a felon, and shall lose the benefit of clergy and sanctuary."

This Act was cited formally in indictments drawn in Maryland in 1674, and in Massachusetts in the spring of 1692, and was acknowledged to be in full force in Pennsylvania in 1684. Massachusetts seems to have been the only colony to embody it in its laws. The Privy Council repealed the Act in 1695, because it was "not found to agree with ye Statute of King James the First whereby ye Dower is saved to ye Widow and ye Inheritance to ye heir of ye party convicted." The English Act remained unrepealed till 1736; and, so late as 1712, was declared to be in force in South Carolina. It does not appear that any "resurrectionist" was ever convicted under it in America. The first American Act to prevent the digging up of bodies for dissection, was the New York Act of 1789.

The Act of Massachusetts, passed in 1784, against duelling, is a noteworthy one, by reason of the fact that it contains the first authorization on the part of an American legislature of the dissection of the dead bodies of malefactors. The province had enacted laws for the prevention of duelling, in 1719 and 1729. That of 1719 provided penalties in the way of fine, imprisonment, and corporal punishment — any or all of them, at the court's discretion — for those convicted of engaging in, or challenging another to engage in, a duel. Under the Act of 1729, duellists and their accomplices were carried in a cart to the gallows with a rope about the neck, "and after sitting for the space of one hour on the gallows, with the rope about his neck as aforesaid," the offender was confined in the common jail for one year, and at the expiration of his sentence was required to find sureties for his good behavior for the succeeding twelvemonth. The Acts of 1729 and 1784, both denied Christian burial to the bodies of men killed in a duel. Moreover, it was provided in section 3 of the Act of 1784, "that when it shall appear by the coroner's inquest that any person hath been killed in fighting a duel, the coroner of the county where the fact was committed shall be directed and empowered to take effectual care that the body of such person so killed be immediately secured and buried without a coffin, with a stake drove through the body, at or near the usual place of execu-

tion, or shall deliver the body to any surgeon or surgeons, to be dissected and anatomized, that shall request the same and engage to apply the body to that use." Section 4 ordains "that any person who shall slay or kill another in a duel, and shall, upon conviction thereof on an indictment for murder, receive sentence of death, part of the judgment of the court upon such conviction shall be that the body be delivered to any surgeon or surgeons, to be dissected and anatomized, that shall appear in a reasonable time after execution to take the body and engage to apply it to that purpose."

If the Massachusetts legislators in 1784 had any intention of recognizing the needs of the anatomists, they failed to declare it, so that New York was the first State, by section 2 of its Act of 1789, to express the desire that "science might not in this respect be injured by preventing the dissection of proper subjects." It was not till the passage of the Massachusetts Act of 1831 that any State really undertook to "legalize the study of anatomy."

It is most likely that the provisions of the Act of 1784 touching dissection were designed to make duelling a specially infamous offence. This was quite in keeping with the English law regarding dissection. In 1752, the Parliament of 22 George II., in order that "some further Terror and peculiar Mark of Infamy might be added to the Punishment of Death," legalized the delivery of the bodies of executed murderers to the surgeons for dissection. This must have been the Act from which the royal governors derived authority to dispose of murderers' bodies in Massachusetts in the manner indicated in the following extract, taken from the Life of Dr. John Warren, by Edward Warren, M. D., page 230: "At this period [just prior to the Revolution] the governor had the disposal of the body of the criminal after execution. He might order its delivery to the man's friends, to any one to whom he himself assigned it, or to a surgeon. The prisoner, with the governor's assent, might make his own arrangements even for the sale of his body, if he was so disposed, either for the benefit of his family or his own brief enjoyment."

It is to be remarked that the Act of 1752 required the judges to add either dissection or hanging in chains to the death sentence of murderers, and that previously to 1832, when the Warburton Anatomy Bill was passed, there seems to have been no warrant in English law for any sort of bargain concerning a cadaver. The only legal mode of disposing of a dead body, excepting in case of

malefactors, was to bury it. Once buried, it was an indictable offence at common law for any person to exhume it, except by the leave of the proper officers.

The name of Warren is most intimately associated with the rise and progress of anatomical science in Massachusetts. Dr. John Warren while a student in Harvard College, where he graduated in 1771, was the leading spirit in forming a private anatomical society, composed of students. He says of it that "brutes were dissected and demonstrations on the bones of the human skeleton were delivered by the members." The Anatomical Society and the Spunker Club, to which there are frequent allusions in the Life of Dr. John Warren, seem to have been identical. Dr. Warren was the principal lecturer of the club. His most zealous associates were his classmate, Jonathan Norwood, William Eustis, class of 1772, and David Townsend and Samuel Adams, of the class of 1770. Adams was a son of Samuel Adams the patriot. Eustis, Adams, and Warren all studied medicine with an elder brother of the latter, Dr. and General Joseph Warren. Eustis, Warren, Townsend, and Adams became surgeons in the Continental army. Adams died in 1778. Eustis lived to become governor of Massachusetts in 1823. Warren was surgeon-general of the military hospital at Boston, from June, 1777, till the close of the Revolution, and was the first professor of anatomy and surgery of the Harvard Medical School, of which he was practically the founder.

Some notion of the methods of study of the Spunker Club may be gained from the following extracts from letters written by Eustis to Warren, prior to 1775: "This may serve to inform you that as soon as the body of Levi Ames was pronounced dead, by Dr. Jeffries, it was delivered by the sheriff to a person who carried it in a cart to the water side, where it was received into a boat filled with about twelve of Stillman's crew, who rowed it over to Dorchester Point. . . . When we saw the boat at Dorchester Point, we had a consultation, and Norwood, David, One Allen and myself took chaise and rode round to the Point, Spunkers like; but the many obstacles we had to encounter, made it eleven o'clock before we reached the Point, where we searched and searched, and rid, hunted, and waded, but, alas, in vain! There was no corpse to be found. . . . We have a —— from another place, so Church shan't be disappointed. P. S. By the way, we have since heard that Stillman's gang rowed him back from the Point up to

the town, and after laying him out in mode and figure buried him, God knows where! Clark & Co. went to the Point to look for him, but were disappointed, as well as we." No wonder that the same writer, in another letter, says, "Good heavens! to reflect on the continued bars we are meeting in our pursuits! It seems as if fate had placed medical knowledge *profunda in puteo, saxis et vix mobilibus submersa.*"

It is not yet one hundred years since Dr. John Warren delivered the first course of public anatomical lectures ever given in Massachusetts, in compliance with a vote of invitation passed by the Boston Medical Society, November 3, 1781. It is scarcely fifty years since the Massachusetts Medical Society began to agitate the question of legalizing the study of anatomy. The Harvard Medical School, in the ninety-eight years of its history, has had but three professors of anatomy, namely, Dr. John Warren, professor of anatomy and surgery from 1782 till 1815, when he died; Dr. John C. Warren, professor of anatomy and surgery from 1815 to 1847, when he resigned; and Dr. Oliver Wendell Holmes, professor of anatomy, who, like the elder Warren, has held his chair thirty-three years.

Dr. John Warren's son and successor, Dr. John C. Warren, was three years old in 1781, the year the Massachusetts Medical Society was incorporated. Fifty years later, as one of the most prominent members of that society, February 2, 1831, he lectured before the members of the Massachusetts Legislature, in the representatives' chamber, on the Study of Anatomy, in accordance with a vote of the house of representatives, passed January 29, 1831. At the time of this lecture the anatomy bill, which became a law on the 28th of that month, was still pending.

No better testimony concerning the obstacles which beset the pursuit of anatomical science during those fifty years can be given than is found in the Biographical Notes of Dr. John C. Warren, from which we quote: "No occurrences in the course of my life have given me more trouble and anxiety than the procuring of subjects for dissection. My father began to dissect early in the Revolutionary War. He obtained the office of army surgeon when the Revolution broke out, and was able to procure a multitude of subjects from having access to the bodies of soldiers who had died without relations. In consequence of these opportunities he began to lecture on anatomy in 1781. After the peace there was great

difficulty in getting subjects. Bodies of executed criminals were occasionally procured, and sometimes a pauper subject was obtained, averaging not more than two a year. While in college I began the business of getting subjects in 1796. Having understood that a man without relations was to be buried in the North Burying-Ground, I formed a party. . . . When my father came up in the morning to lecture, and found that I had been engaged in this scrape, he was very much alarmed, but when the body was uncovered, and he saw what a fine, healthy subject it was, he seemed to be as much pleased as I ever saw him. This body lasted the course through. Things went on this way till 1807, when, with the coöperation of my father, I opened a dissecting-room at 49 Marlborough Street. Here, by the aid of students, a large supply of bodies was obtained for some years, affording abundant means of dissection to physicians and students. In the meantime, however, schools began to be formed in other parts of New England, and students were sent to Boston to procure subjects. The exhumations were conducted in a careless way. Thus the suspicion of the police was excited; they were directed to employ all the preventive measures possible, and watches were set in the burying-grounds. Thus the procuring of bodies was very much diminished, and we were obliged to resort to the most dangerous expedients, and, finally, to the city of New York, at a great expense of money and great hazard of being discovered. Two or three times our agents were actually seized by the police, and recognized to appear in court. One or two were brought in guilty, and punished by fine, but the law officers, being more liberal in their views than the city officers, made the penalty as small as possible. Constant efforts were necessary to carry on this business, and every species of danger was involved in its prosecution. . . . At that time scarcely any exhumation occurred without accidents of the most disagreeable and sometimes painful character. The record of them would make a black-book, which, though the odium of it should belong to few individuals, would do no credit to the enlightenment of Boston in the nineteenth century, and convey an idea of the state of feeling of a professor of anatomy on the approach and during the course of his anatomical pursuits.

"Sometimes popular excitement was got up, and the medical college threatened. I had reasons, at some periods, even to

apprehend attacks on my dwelling-house. Whenever the lectures approached, a state of incessant anxiety came with them. At length the pressure was so great that it was resolved to make an effort in the legislature, though with little hope of success."

If it were necessary, evidence to corroborate that of Dr. Warren might be indefinitely multiplied from the published and unpublished traditions of the elders. We content ourselves with the mention of one episode. About 1820 a highly respectable physician of Eastern Massachusetts, being detected in anatomical pursuits, was obliged to flee the State. In a distant community, which to this day has no anatomy Act, he won eminence as a teacher of anatomy and practitioner of medicine.

Dr. H. I. Bowditch, in his Life of Amos Twitchell, M. D., treats fully of the condition of affairs in New England, when the law said, as he puts it, "A man who is found with a body in his possession for the purpose of dissection shall be considered guilty of a felony."

It was chiefly due to the efforts of the Massachusetts Medical Society that Massachusetts, in 1831, was induced to anticipate all English-speaking States in the enactment of a liberal law regarding anatomical science. The first definite action of the society seems to have been taken by the councillors February 4, 1829, when, on the motion of Dr. A. L. Peirson, of Salem, a committee, consisting of Drs. John C. Warren, E. Alden and A. L. Peirson, was appointed "to prepare a petition to the legislature to modify the existing laws which now operate to prohibit the procuring of subjects for anatomical dissections." Previous attempts, however, seem to have been made to weaken popular and legislative prejudices. Public attention had been forcibly called as early as 1820, in the case of the physician above alluded to, to the unsatisfactory working of the law of 1815, "to protect the sepulchres of the dead." It is said that a year or two later a private teacher of anatomy, in Boston, found one morning on his dissecting-table the body of a prominent actor, then recently deceased. The anatomist, who had been a particular admirer and friend of the actor's, caused the body to be returned to the tomb, under Trinity Church, from which it had been stolen, and acquainted the authorities with the circumstance. This occurrence seems never to have been made public, but the physicians and authorities agreed that the laws must be amended. Doubtless they concluded that the public must be enlightened before anything could be gained from the

legislature, for, in 1825, Wells and Lilly reprinted in pamphlet form an article on "The Importance of the Study of Anatomy, with some Additional Remarks," from the *Westminster Review* of 1824. Some writers allude to efforts before the legislature in 1828, but we have found no documentary proof of any legislative action previous to that in the house of representatives, February 3, 1829, when the Committee on the Judiciary was instructed, on motion of Mr. F. A. Packard, of Springfield, "to inquire into the expediency of making any farther legal provisions to protect the sepulchres of the dead from violation." In accordance with these instructions, on February 14th the Committee reported a bill, which, on being read a second time, February 24th, was indefinitely postponed on the motion of Mr. Thomas B. Strong, of Pittsfield. The secretary of the Massachusetts Medical Society at this time was Dr. George Hayward. In the *North American Review* for January, 1831, he says that this proposition, above noted, to mitigate the severity of the law "was hardly listened to with decency; members seemed anxious to outdo each other in expressions of abhorrence; and the bill was not even allowed a second reading."

History repeats itself in the case of anatomy Acts no less than in other departments. In 1866, an anatomy bill, after passing the Pennsylvania house of representatives, was withdrawn from the senate of that State, because a too influential member of that body objected to it as being "unworthy of the age in which we live." The next year, however, when it was made manifest that "the bodies of distinguished legislators themselves, after a life full of good works, were no longer safe in their graves," both senate and house passed "An Act for the promotion of medical science, and to prevent the traffic in human bodies, in the city of Philadelphia and the county of Allegheny."

At the annual meeting of the Fellows of the Massachusetts Medical Society, June 3, 1829, the committee of three, appointed by the councillors in February, reported that it was inexpedient to act upon the petition prepared by them to be presented to the legislature. After a full discussion of the report it was agreed to refer the whole subject to a committee of nine. The committee was requested to report at the October meeting of the councillors; and the councillors were authorized to take such measures as they might deem necessary in behalf of the society. The following named gentlemen were chosen to serve on this committee: Drs. A.

L. Peirson, of Salem; John C. Warren, John D. Wells, John Ware, William Ingalls and George C. Shattuck, of Boston; Nathaniel Miller, of Franklin; Nehemiah Cutter, of Pepperell, and John Brooks, of Bernardston. When the councillors of the society met, October 7th, the committee reported that on September 1st a circular letter to the Fellows of the society had been issued, "with a view of advancing the objects proposed by their appointment," and they recommended to the councillors to cause a petition to be prepared and presented at the winter session of the general court. It was voted to continue the committee, and to authorize it to incur an expense not exceeding one hundred and fifty dollars.

A circular letter, dated Salem, September 1, 1829, and signed by all of the committee excepting Dr. Miller and Dr. Cutter, solicits the aid of every influential member of the society in removing the popular prejudice against dissection, "especially as it exists in the minds of members of the legislature." The points upon which it was intended to rely in the proposed petition to the legislature, are as follows: "(1.) Anatomical knowledge is absolutely necessary in all branches of our profession. (2.) This knowledge can only be acquired by dissection. (3.) So far as the poor are concerned, it is for their especial benefit that all physicians should learn anatomy thoroughly. (4.) It is believed that the diseases and lameness of many paupers have passed from a curable to an incurable condition for the lack of surgical skill, which could only have been derived from a knowledge of practical anatomy. (5.) All lovers of good morals must feel desirous to prevent the growth of a body of people who make it a business to violate the sepulchres of the dead. (6.) The public, as a body, have a greater degree of interest in this matter than even physicians." The Fellows are urged to lay the subject before the members of the legislature, with whom they may be acquainted, and to inform the committee, before October 1st, concerning their own views and the course of public opinion in their vicinity.

The petition authorized by the councillors, and alluded to by the committee in the circular, which was probably written by Dr. Peirson, seems to have taken the shape of an "Address to the Community on the necessity of legalizing the Study of Anatomy: By order of the Massachusetts Medical Society." In the address, which covers twenty-seven pages, and bears the imprint of Perkins & Marvin, Boston, 1829, the points of the Salem circular are amplified

and enforced. The address is noticed in the *American Journal of Medical Sciences*, vol. vi. p. 210, by Dr. W. E. Horner, of Philadelphia, who characterizes it as "a candid and open exposition of difficulties, and of the means of relieving them." "It is," he says, "a statement directly to the point, and must have weight, if common sense and common philanthropy are to be arbiters. It proposes that the legal restrictions upon dissections shall not apply in the case of individuals who have no living relatives, and who have been kept at the public expense." Dr. George Hayward declares that "this address made a deep impression on the thinking part of society, and wrought a marvellous change in public opinion." At their meeting, on February 3, 1830, the councillors of the Medical Society authorized the committee of nine to print a new edition of not more than ten thousand copies of the Address to the Community.

Meanwhile, on January 22d, in accordance with a motion made by Mr. Mason, of Boston, in the house of representatives, the committee on the judiciary had been instructed to inquire into the expediency of farther legislation for the protection of sepulchres. The judiciary committee consisted of Messrs. L. Saltonstall, of Salem; L. Shaw, of Boston; Newton, of Worcester; Mann, of Dedham; and Whitman, of Pembroke. Mr. Saltonstall, the chairman, made a detailed report February 25, 1830, in which it was recommended that the farther consideration of the matter be referred to the first session of the next legislature. The report lay upon the table till March 11th, when it was taken up, accepted, and ordered to be published in the "newspapers which print the laws of the commonwealth." This report is printed as "No. 51, House Documents, pp. 756–764, Documents of Massachusetts, Political Year 1829, and January Session 1830." The report is eminently liberal in spirit, and judicial in tone, and is written clearly and concisely. Although the committee reach the conclusion that the existing law, that of 1815, is unfair to the medical profession and inconsistent with the best interests of the community, they refrain from proposing any alteration of it, believing that public opinion has not become sufficiently enlightened to warrant such action.

Governor Levi Lincoln, in his address to the legislature, delivered May 29, 1830, at the opening of the summer session, declares that the frank and manly representation by the medical faculty of the embarrassments and difficulties of acquiring a knowledge of anatomy

deserves the most respectful regard. "It may be," he says, "that this subject is of a nature too delicate for direct legislation; but the public mind should be instructed in its interesting importance. Let it be shown that the knowledge which is sought in the science of anatomy concerns all the living, and that without it the accidents and ills of life which art might remedy are beyond relief. Let the reason of men be addressed, and prejudice be dispelled by information and the force of argument. It may then come to be understood that a community which demands the exercise of skill and denies the means to acquire it, which punishes ignorance and precludes the possibility of removing it, is scarcely more compassionate than that Egyptian harshness which imposed the impracticable task in cruel oppression of the inability to perform it. . . . It is not my purpose to propose any definite act for your adoption. I would commend the subject only to the discreetness of your counsels."

On May 31st, Mr. John Brazer Davis, of Boston, moved in the house of representatives, and it was ordered, "That so much of his Excellency the Governor's speech, as relates to a modification of the laws in relation to the study of anatomy, be referred to a select committee." The gentlemen chosen to act as such committee, were Messrs. J. B. Davis, of Boston, G. Willard, of Uxbridge, A. Hutchinson, of Pepperell, L. W. Humphreys, of Southwick, and J. B. Flint, of Boston. The day after their appointment, the committee reported through Mr. Davis, that the subject be referred to the next session of the legislature, and the report was accepted.

On the 1st of January, 1831, the select committee made its report, and brought in a bill "more effectually to protect the sepulchres of the dead and to legalize the study of anatomy in certain cases." The report was written by the chairman of the committee, Mr. Davis. The report constitutes No. 4 of the house documents for 1831, and in the printed copy is dated January 6. Pages 3–82 inclusive are devoted to the report proper; the bill is found on pages 83–86; the list of documents accompanying the report is found on page 87; and the documents themselves fill twenty-nine pages more.

This is altogether the most exhaustive document on the subject that we have seen; inasmuch as the committee undertakes to consider, in "all its aspects, the subject committed to them, and to present not only the results, but the details, of their researches

and reasonings on it." We shall not undertake to outline it within the limits of a latter-day paper, in face of the fact that twenty pages octavo are taken up in tracing "the progress of anatomical science from the first rude attempts of the Greeks, through a slow progress of near two thousand years," before it is attempted to show, in nearly thirty-six pages more, that "the study and knowledge of anatomy are essential to the safe and successful practice of medicine." We unhesitatingly recommend this "faithful compilation of the facts and reasonings of distinguished men, who have devoted their attention to this subject," to the consideration of those who have to snatch time from the practice of medicine to get up "inaugural addresses" for medical colleges in States still fifty years behind the times. They will find Dr. Southwood Smith's "Uses of the Dead to the Living," and the "Report of a Select Committee of Parliament on the Hindrances to the Study of Anatomy, London, 1828," poor beside, and because of, the riches of this report of the Davis committee.

The legal status of dissection is noticed in the report as follows: "In 1815 a law was passed for the protection of the sepulchres of the dead, which punished the exhumation of any dead body or the knowingly and wilfully receiving, concealing, or disposing of any such dead body, by a fine of not more than one thousand dollars, or imprisonment for not more than one year. Before the passing of this Act, several cases at common law were brought before the Supreme Judicial Court, in all of which, where there was a conviction, the party was punished. Where it appeared that the exhumation was for subjects for dissection, a small fine was imposed. The last case of this kind was against a now eminent physician, then of Essex county, in which several important law points were raised; but the case does not appear to have been reported. Under the statute there have been several prosecutions, convictions, and punishments. With truth it may be said that in Massachusetts a student or teacher of anatomy cannot be found who is not indictable under the statute of 1815."

"While the law of this Commonwealth is thus severe against the exhumation of dead bodies, another law has been passed, by which every practitioner of medicine is required to obtain a degree at Harvard University, or license from the Medical Society, before he can maintain an action for debt for his professional services. The license or degree is given on examination, and one of the

prerequisites for this examination is that the applicant shall have gone through such a course of dissection as shall give him a minute knowledge of anatomy.

"The only legalized mode of supplying subjects for dissection is the sentence or order of the Supreme Judicial Court of this State and of the Circuit Court of the United States in capital convictions within their respective jurisdictions. The insufficiency of this supply may be inferred from the statements of the secretary of the Commonwealth and of the clerk of the United States District Court. The former states, in answer to inquiries addressed him by the chairman of this committee, that the whole number of executions or suicides of convicts from January 1, 1800, to December 31, 1830, is but twenty-six—less than one a year. The clerk of the United States District Court, in reply to like inquiries, states that from the adoption of the federal constitution and the first organization of the federal courts down to the present time the whole number of executions and of suicides of convicts sentenced by that court in this district is but fourteen,—being about one in three years."

February 26, the clerks of the two houses caused the enacted bill to be laid before Governor Lincoln, by whom it was approved and signed February 28, 1831.

The wisdom of the Medical Society and the select committee in acting on Governor Lincoln's recommendation that "the reason of men be addressed, and prejudice be dispelled by information and the force of argument," is justified by the lack of opposition to the enactment of the Davis bill. The Boston *Advertiser* for February 11, 1831, notes the fact that on the day previous the Davis bill had passed to a third reading in the house by a vote almost unanimous. It adds: "No discussion took place touching the general provisions or tendency of the bill. Several amendments were offered relating to the details only. No one expressed any sentiments or opinions in opposition to the general features of the bill; but it received the approbation of all as a necessary step in the progress of improvement." This shows a marked change in public opinion since 1829, "when," to use the words of Dr. G. Hayward, "the proposition to mitigate the severity of the law against those engaged in dissection, was driven almost by acclamation from the legislature."

Subsequent legislation has considerably modified the Act of February 28, 1831, as may be seen on consulting the Acts of April 1,

1834, March 26, 1845, May 10, 1855, and March 28, 1857. By the act of 1845, chapter 242, former Acts are simplified, amended, and improved. Section 1 provides that the overseers of the poor of any town, and the mayor and aldermen of any city, in the commonwealth, "shall, upon request, give permission to any regular physician, duly qualified according to law, to take the dead bodies of such persons as are required to be buried at the public expense within their respective towns or cities;" and also makes it "the duty of all persons having charge of any poorhouse, work-house, or house of industry, in which any person required to be buried at the public expense shall die, immediately to give notice thereof to the overseers of the poor of the town, or the mayor and aldermen of the city, . . . and the dead body of such person shall not, except in cases of necessity, be buried, nor shall the same be dissected or mutilated until such notice shall have been given and the permission therefor granted." According to section 2, "no such body shall in any case be surrendered if the deceased person, during his last sickness, of his own accord, requested to be buried." Excepting the repeal of sections 10 and 11 of the Revised Statutes of 1835, the Act of 1845 contains no other noteworthy new provision.

Chapter 323, Laws of Massachusetts, 1855, section 1, confers the powers and duties of overseers of the poor, as defined in chapter 242, Laws of 1845, upon "overseers and superintendents of State almshouses." Section 2 contains provisions new to the statute book. It reads: "Whoever buys, sells, or has in his possession for the purpose of buying, or selling, or trafficking in, the dead body of any human being shall be punished by fine of not less than fifty, nor exceeding five hundred dollars, or by imprisonment in the jail not less than three months, nor exceeding three years." The duty of giving immediate notice to the proper authorities of the death of friendless persons in the institutions under their control, devolved by the Act of 1845 upon the directors of houses of industry, etc., etc., is also, by the Act of March 28, 1857, laid upon the board of directors of public institutions of Boston.

So far as the writer has been able to learn, the Massachusetts legislature has enacted nothing of interest concerning anatomical science since 1857.

We have already noticed the provisions of the Act of 1784, concerning the dissection of dead duellists. The Act of 1784 was repealed March 15, 1805, when the following was enacted: . . .

"Justices of said court, before whom the conviction shall, in cases of murder committed in a duel, and in other cases, may, at their discretion, further sentence and order the body of such convict to be dissected and anatomized."

In chapter 125, section 2, page 716, Revised Statutes 1835, we find no mention of "murder committed in a duel;" but we do find that "in every case of a conviction of the crime of murder, the court may, in their discretion, order the convict to be dissected, and the sheriff shall deliver the dead body of such convict to a professor of anatomy and surgery in some college or public seminary, if requested; otherwise it shall be delivered to any surgeon who may be attending to receive it, and who will engage for the dissection thereof." The last revision of the Massachusetts statutes contains the above provision for the dissection of a dead murderer's body, practically unchanged, excepting this saving clause: "unless his friends desire it for interment."

The Massachusetts Anatomy Act of 1831, was productive of results in two directions; it lightened the burdens of the teachers of anatomy in that State, and it led to the enactment of similar laws in other States. Connecticut passed a liberal Act, modelled on that of Massachusetts, June 5, 1833, but repealed the same June 5, 1834. New Hampshire legalized anatomy in 1834, but rescinded its action in 1842. Michigan passed "an Act to facilitate the study of anatomy," March 9, 1844, but repealed it April 7, 1851. New York is entitled to the place of honor next to Massachusetts, on the list of States which have consistently endeavored to promote anatomical science. The New York law of April 1, 1854, has never been repealed; on the contrary, it has been improved, notably by the amendatory Act of June 3, 1879.

Referring to the Massachusetts law of 1831, as amended in 1845, Dr. John C. Warren says: "The Superintendent of the House of Industry opposed great difficulties to the execution of this law; but he dying in 1847, an ample supply was obtained for the medical school afterwards, particularly in consequence of the influx of Irish paupers, and the great mortality among them." Concerning the working of the same law; Dr. George Hayward, writing in 1855: "The supply has not been, perhaps, as great as could be wished; but, with the increase of population and pauperism, this objection will pass away." We doubt, if in the judgment of the anatomists of the Harvard Medical School, "this objection"

has "passed away." We incline to the belief that "with the increase of population and pauperism," there has been, at least, an equal increase of demagogues, and that no class of men in Massachusetts have a more realizing sense than have its anatomists of the relation existing between eternal vigilance and the price of liberty.

The city government, of Boston, November 3, 1869, ordered "that permits be issued by the city clerk, until otherwise ordered, to the surgeons of the Harvard Medical School to take the dead bodies of such persons dying at Deer Island, or the House of Correction, the County Jail, or City Hospital, as may be required to be buried at the public expense." The statutory restrictions concerning the delivery of unclaimed bodies are embodied in the remainder of the ordinance. The anatomists of Baltimore, Washington, and New Orleans, might fairly consider this Boston ordinance a liberal one, for they are still obliged to dissect without legal warrant, or not at all. On the other hand, in Germany or France, where for years the dissecting rooms have been furnished with the unclaimed dead by the police, this ordinance would, unquestionably, be considered imperfect and illiberal.

It is unfortunate that American anatomists are forced to dance attendance upon public functionaries for "permits;" as they are thereby put in the false position of seeking as a personal favor what ought to be furnished them for the furtherance of the public welfare. Possibly, the time is not yet ripe for the Massachusetts anatomists to demand that the unclaimed dead of Springfield, Fall River, Worcester, Lowell, in short, the entire State, as well as of Boston, should be delivered to them at their dissecting rooms; but such a consummation is none the less devoutly to be wished. Massachusetts led off in legalizing the dissection of bodies required to be buried at the public expense. Would that she might inaugurate an administrative reform which should prevent the present wasteful decomposition of valuable material at the bottom of graves, and preclude the necessity which requires one who is bent on thoroughly learning practical anatomy in all its branches, to seek the anatomical institutes of Europe.

The legal status of anatomy in America, at the beginning of the century, is well illustrated by the Connecticut Acts of 1810. At the May session of that year, it was made punishable, by a fine of at least one hundred dollars and imprisonment in the county

jail for at least three months, for any one secretly to disinter the body of any deceased person for the purpose of dissection, or in any way to aid in so doing, or knowingly "to assist in any surgical or anatomical experiments therewith or dissections thereof." At the October session it was enacted that there should be a "medical institution of Yale College," one of whose four professors should teach anatomy, surgery, and midwifery; and that, as speedily as the college funds would allow, a collection of anatomical preparations should be provided.

The Massachusetts Act of 1784 only authorized dissection of dead duelists as a mark of infamy; therefore, the New York Act of 1789 must be considered as the first American anatomy law. This Act was passed the year after the famous "Doctors' Mob" in New York city, and is entitled, "An Act to prevent the Odious Practice of Digging up and Removing, for the Purpose of Dissection, Dead Bodies interred in Cemeteries or Burial Places." It comprises two sections. Section I. provides that any person convicted of removing any dead body from its place of sepulture, for the purpose of dissection or with intent to dissect, or of dissecting or assisting to dissect, such body, "shall be adjudged to stand in the pillory or to suffer other corporal punishment, not extending to life or limb, and shall also pay such fine and suffer such imprisonment as the court shall in their discretion think proper to direct." In Section II. it is further enacted, "In order that science may not in this respect be injured by preventing the dissection of proper subjects, that when any offender shall be convicted of murder, arson, or burglary, for which he shall be sentenced to suffer death, the court may, at their discretion, add to the judgment that the body of such offender shall be delivered to a surgeon for dissection." Massachusetts made the first considerable improvement on this New York Act when in 1831, it passed a statute authorizing, under certain restrictions, the delivery to the anatomists of the unclaimed bodies "of deceased persons required to be buried at the public expense."

Enactments similar to the New York Act of 1789, Section I., have since been passed by the following States: Alabama, Arkansas, California, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas,

Vermont, Virginia, West Virginia, and Wisconsin. Of the above-mentioned States, Kentucky, Oregon, Rhode Island, Texas and West Virginia have no anatomy Acts; while Rhode Island, Texas, and West Virginia have no medical schools. The laws of nine States, namely, Colorado, Delaware, Florida, Louisiana, Maryland, Nevada, New Jersey, North Carolina, and South Carolina, are, so far as the writer has been able to learn, silent regarding grave-robbery. While the Territories of Dakota, Utah, Washington, and Wyoming have laws for the protection of sepulchres, the District of Columbia has no such law, although one was inserted into the proposed code of 1857, which failed of adoption.

The second section of the New York Act of 1789 has developed into the Acts of twenty-four States. The following-named States have legalized dissection: *Alabama, *Arkansas, California, *Colorado, *Connecticut, *Georgia, *Illinois, *Indiana, Iowa, *Kansas, *Maine, *Massachusetts, Michigan, Minnesota, *Missouri, *Nebraska, New Hampshire, *New Jersey, *New York, Ohio, Pennsylvania, *Tennessee, Vermont, and Wisconsin. The States whose names are starred in the above list make specific provision for the dissection of the bodies of certain deceased criminals, chiefly murderers. It is to be remarked that some of them make no other provision for anatomical science. The Acts of the following States may be termed fairly liberal: Arkansas, California, Connecticut, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Ohio, Pennsylvania, and Wisconsin.

The Acts of Alabama, Colorado, Georgia, Maine, Missouri, Nebraska, New Jersey, Tennessee, and Vermont are illiberal.

In 1869 Maine enacted "that when any person convicted of crime dies or is executed in the State prison or any jail, the warden or keepers shall, on request, deliver his body to instructors in medical schools established by law." In February, 1876, capital punishment was abolished; so that at present in Maine it is legal to dissect only the body of a person who "requests during his life that his body may be delivered to a regular physician or surgeon for the advancement of anatomical science, after his death, unless some kindred or friend within three days" asks to have it buried; or the body of a convict who has not at any time requested to be buried, and whose friends and kindred fail for three days after his death to ask for his burial.

The statute of Tennessee, unless it has been repealed since 1871, is quite as liberal as that of Maine. It provides that no penalty shall "apply to regular physicians to whom the bodies of criminals are delivered pursuant to law, or to dissection of slaves by consent of their masters, or of other persons by consent of their relatives."

The New York Act of June 3, 1879, may be instanced as a type of the liberal class of American Acts. It reads: "It shall be lawful in cities whose population exceeds 30,000 inhabitants, and in counties containing said cities, to deliver to the professors and teachers in medical colleges and schools in this State, and for said professsors and teachers to receive, the remains or body of any deceased person for the purposes of medical and surgical study: provided that said remains shall not have been regularly interred, and shall not have been desired for interment by any relative or friend of said deceased person within twenty-four hours after death; provided, also, that the remains of no person who may be known to have relatives or friends shall be so delivered or received without the consent of said relatives or friends; and provided that the remains of no one detained for debt, or as a witness, or on suspicion of crime, or of any traveller, nor of any person who shall have expressed a desire in his or her last sickness that his or her body may be interred, shall be delivered or received as aforesaid, but shall be buried in the usual manner; and provided, also that in case the remains of any person so delivered or received shall be subsequently claimed by any surviving relative or friend they shall be given up to said relative or friend for interment. And it shall be the duty of the said professors and teachers decently to bury in some public cemetery the remains of all bodies after they shall have answered the purposes of study aforesaid; and for any neglect or violation of this provision of this Act the party so neglecting shall forfeit and pay a penalty of not less than $25 nor more than $50, to be sued for by the health officers of said cities, or of other places, for the benefit of their department." An earlier law of New York forbids all traffic in subjects, or any use of them, except for anatomical purposes, under penalty of imprisonment in jail for not more than a year.

To summarize the legislation from 1789 to 1879, we may say that twenty-four States allow dissection; fifteen States have liberal anatomy Acts, while nine have illiberal ones; the laws of fourteen

States are silent regarding anatomy, excepting their laws on mal-practice; twenty-eight States forbid the desecration of graves, while the laws of ten States are silent regarding it; the laws of six States are silent touching both dissection and disinterment; Dakota only of the eight Territories allows dissection; four Territories forbid exhumation, and four have no enactment regarding it; twelve States and one Territory require the burial of *cadavera dissecta*.

The District of Columbia occupies a unique position among the capitals of civilized States in that the studies of its anatomists and the graves of its dead are alike unprotected by statutory enactments. The United States government sends Washington resurrectionists to jail when it can; but it has recently utilized in the examinations before the Navy Board, in the city of Washington, as many as twelve subjects, which could be procured by stealth only.

The most elaborate, the most liberal, and also the most stringent of the American anatomy Acts have been passed within the last five years. Those of Indiana, Ohio, and New York, were passed in 1879. The amended Iowa Act of March 26, 1880, is, so far as the writer can learn, the latest American anatomy Act.

The writer has endeavored to ascertain some facts as to the amount and cost of the dissection done in our American schools. There are no statistics on the matter. The following statement, based on the figures of the forthcoming report for 1878 of General Eaton, United States Commissioner of Education, and on such data as several of our prominent teachers of anatomy have kindly furnished, is put forth as a provisional one, in the hope that anatomists interested in the matter may coöperate to make it a full and accurate one. The total number of medical students of "all sorts" in the United States in 1878 was 11,837, showing an increase of 4894 since 1870. Of these 8286 were in attendance upon 915 instructors in 64 "regular schools," in 23 different States and the District of Columbia. In 9 States with liberal anatomy laws there were 22 schools, with 440 instructors and 4643 students. In 6 States and 1 district, with 14 schools and 141 instructors, there were 1337 students unprotected by law in the study of practical anatomy. In 8 States with illiberal or insufficient laws there were 27 schools, with 334 instructors and 2306 students. Kentucky, with 4 schools and 509 students, had

no law. Ohio, with 7 schools and 877 students, had an illiberal law. The District of Columbia had 158 students in 3 schools, also 1 President of the United States and 1 Congress ditto, but no anatomy law. Maryland, with 2 schools and 349 students, Louisiana, with 1 school of 147 students, and South Carolina, with 1 school and 71 students, had no anatomy Act, and no statute forbidding disinterment.

During the winter 1879-80, in seven medical schools, in five different States, there were 1566 students in attendance, of whom 1124 dissected, and 628 dissected more than one part. On the average the dissection of two parts is required for a degree. The average cost of "a part" was $1.79, the extremes being $3.50 and nothing. The demonstrator's ticket is not reckoned in the cost per part. There were used 392 subjects, at an average cost of $14.42 to the schools. The extremes of price for subjects were $3.00 and $50.00. Usually 5 students dissect on a single subject, but in one school 8, and in another 10, students work on the same subject, alternately reading and dissecting. Of the 392 subjects used, not more than 36 were used by students in making surgical operations on the cadaver. Three of the seven schools claim to prescribe such a course of operations; but, judging from the number of students who took it, it is a medical rather than a legal prescription. Of the 1124 students who dissected, 465 using 133 subjects, were unprotected by law in so doing. On the basis indicated above, it is computed that the 8286 students of the regular schools in 1878 should have had at their disposal 2058 subjects. The official returns show that in France, in 1876, there were 3463 subjects at the disposal of 5624 students.

We have traced, thus far, the course of practical anatomy in America from the time of Giles Firmin till the close of the last century; and have considered in a more detailed way the development of what may be characterized as the most typical of the American anatomy acts, namely, the Massachusetts law. The same obstacles of prejudice and apathy which beset the anatomists of our younger States, have been operative in every land where anatomy has gained a foothold, since the days of Ptolemy. It would be interesting to attempt to analyze the popular prejudice against human dissection, which is a strange compound of pagan superstition, Christian materialism, and an innate aversion to the morals, aims, and manners of the average American medical

student. Such an attempt would take us too far afield. It is note-worthy, however, that anatomy has flourished chiefly under the rule of princes and prelates. Anatomists have usually found republics, to say the least, ungrateful. We ought not to be surprised, therefore, when we consider American anatomy acts as a class, to find certain of our States no more enlightened in this regard than was France when Vesalius had to contend by night with vultures and prowling dogs for the carcase of the murderer or the suicide. The utmost help that several of our States give to anatomists is the occasional gift of the body of an executed malefactor; while others of them have not attained even to that mediæval stage of generosity.

The radical difference between European and American medical education results from the woeful lack, on this side of the Atlantic, of the well-considered, consistent, and responsible State supervision exercised over the teachers, students and practitioners of medicine in most European countries. In no department of medical education is this difference more strongly marked than in that of anatomy. It is equally clear whether we consider the training and attainments of the teachers, the amount of practical knowledge required of the students, or the laws regulating the supply of material in this department.

It is no less certain that the German and French schools of anatomy outrank the British, than that the latter outrank the Americans. While one might, from sources to be found in the libraries of Washington, Boston, and Baltimore, trace the development of the French laws concerning the cadaver; the writer finds it impossible to make any detailed statement, based on authentic documents, regarding the laws which regulate the organization and maintenance of the German institutes of anatomy. It may be stated, however, that an Act which should embody the best features of the best American Anatomy Acts, while it would compare favorably with the British laws, would fall far short of the French, in point of comprehensiveness and liberality; and it is safe to say that no medical school in the United States combines the rigid requirements of Vienna and Prague, of seventy years ago, with anything like the wealth of opportunity offered today at Paris and Bonn. One who should desire to become a thoroughly expert anatomist through the dissection of the dead rather than by mangling the living, would be justified in going from America to

Germany or France simply on grounds of economy. The depopulation of American medical colleges, owing to such a cause, need, however, not be feared; so long as the present public and professional indifference to ignorance of the fundamental facts of medical science obtains.

NOTE.—A bibliography of the authorities consulted in the preparation and revision of this paper would be too volumnious for the pages of this Journal. It is, however, proper to state that all references have been verified so far as I have had access to authentic sources. In studying the Massachusetts and New York Acts, I have been able to consult original documents to a considerable extent. I have not found a single comprehensive and accurate statement in regard to the American laws which relate to the dissection of the dead, or the desecration of graves. Such statements as I have made on those topics are based upon an examination of the Revised Statutes, and of the Session Laws of the States, as found in the Law Library of Congress at Washington. The results of this examination are less trustworthy than I could wish, for the reason that the publications of many States are badly indexed, and others are not indexed at all. Next to the Library of Congress, the Surgeon General's Office Library, at Washington, has afforded me more material than any other. I am under especial obligation to Dr. J. M. Tower, of Washington, and to Drs. J. Collins Warren and S. A. Green, of Boston, for helpful suggestions and valuable data. I would also acknowledge my indebtedness for kindly assistance to the gentlemen having charge of the following named collections of books: the library of the Department of Education, Washington; the libraries of the Peabody Institute, the Maryland Historical Society, and of the Medical and Chirurgical Faculty of Maryland, in Baltimore; the Public Library, the Social Law Library, the Boston Athenæum, and the libraries of the Medical Library Association, the Massachusetts Historical Society, and the New England Historic Genealogical Society, in Boston.

BALTIMORE, March, 1881.

PAPERS
OF THE
HEALTH DEPARTMENT.

I THE TREATMENT OF INSANITY IN ITS ECONOMIC ASPECT.

BY WALTER CHANNING, M. D., BOSTON.

(Read Wednesday, September 8.)

There is, of course, a true economy in the treatment of the insane as well as a false. Any measures, in fact, that will cure or shorten mental disease and render thereby the insane a public burden for a shorter time, may be regarded as in the interests of true economy. Such measures may be for the moment an added expense, but if they build a foundation for the more successful treatment of insanity in the future they will still serve the same end.

It must be remembered that insanity is promoted by those very conditions which are favorable to the extinction of other diseases as well as public evils. The advance of civilization, for instance, points out scientific principles which enable us to struggle successfully against, and exterminate, diseases that once we could not understand. Yellow fever is a good illustration of this point. For centuries feeble and unavailing efforts had been made to annihilate this scourge, but not until modern civilization furnished the means and science the weapons were its ravages successfully checked.

Insanity may be regarded as the residue resulting from the intellectual and moral combustion of the nineteenth century. General cultivation increases, the standard of morality improves, art and science proceed by giant strides, but still we see an increase of insanity. The direct, exciting causes of this increase cannot be analyzed here; the truth of the assertion is generally acknowledged on all sides. It is a lamentable fact that cures result less frequently than formerly; recent cases, though still curable in a large percentage, are more and more apt to end in permanent mental weakness.

How are we morally or physically weak? Why is it in this nineteenth century of refinement and enlightenment that one person out of every three hundred is doomed to become a mental wreck, a cipher, a nonentity, to be wiped off the surface of the earth?

Have we exhausted every possible means of knowledge? Cannot something still be done to avert this black cloud of intellectual decay? These are questions of vital importance to every one, and must be weighed with care and attention. There is evidently some very grave defect in this great social fabric of which we are all members, and to discover its true nature becomes daily a more important duty. The truest economy then that can be established in the treatment of the insane, will be one that traces insanity back to its origin and saves future generations from its terrible infliction.

To understand what insanity really is and how caused we must, in the first place, understand the laws of moral and physical health, of which we are now sadly ignorant and neglectful. Medical men should be the teachers of these subjects, but it cannot be denied that they also are very imperfectly grounded in them. Of all branches of the science of medicine, psychology, or the science of moral and intellectual health, is least taught and least understood. If physicians possess an extended knowledge of insanity we shall be taking one of the most important steps toward disseminating a knowledge which in the end must open the eyes of the public and materially aid in its extinction. Good care will effect much in the treatment of insanity, and thirty to forty per cent. of recoveries is, at present, obtained in insane hospitals; but its prevention is a matter of more vital importance. Physicians have an extensive acquaintance with the personal histories of most of their patients; they are the ones to whom are confided the trials which beset the family, the weakness of its individual members, and other affairs which are generally regarded as family secrets. Furthermore, when they have been in practice for several years they have had an opportunity to watch their patients through the various stages of development, and in that way to become possessed of a knowledge of their character which no one else but the parents can have. In treating mental disease such knowledge must necessarily be of great assistance not only in the treatment, but also in the prevention. With this understanding of mental and physical peculiarities, and extended and accurate knowledge, the physician has within reach the most powerful weapon for combating insanity. The difficulty thus far, however, has been that he is not conscious of the power he might wield, for the very reason that his attention has not been turned in this direction. It is here that the study of psychological medicine would supply the necessary stimulus, and impart knowledge which

will serve as a foundation for those efforts which must be put forth to struggle with this overpowering disease. In the interests, then, of the true economy of insanity, it will be my object in this paper to urge the importance of the study of psychology, or psychological medicine, by medical men.

Any one, who, ten years ago looked in upon a class of listeners attending the lectures of a teacher of mental diseases, would have been struck by the sparseness of numbers and lack of attention displayed. Perhaps for the first few lectures the attendance would be good, but after a short time it would fall off and become almost nothing. This was not much to be wondered at, as the subjects under discussion were treated in a manner characteristic of the lecturer of fifty years ago. My mind reverts to the teacher that I had the fortune to follow through a short course of lectures. He was a man of good mind and of a wide local reputation, but his studies had been pursued a quarter of a century before, and, outside of the relation of numerous cases, he had little to say that was not to be found in the treatises of Esquirol, Pinel, and Bucknill and Tuke. These names were constantly resounding through the room, and if I chanced to enter late, or leave early, the first or last sound that fell on my ear was one of these names. The subject of insanity seemed to be enveloped in a cloud of Esquirols, and this impression has been almost the only one retained, though I attended the course with a sincere desire to learn. Since the time to which I allude, the standard has undoubtedly been a little raised. More medical schools furnish courses of lectures on mental diseases, and the lecturers are actuated by a more earnest desire to give instruction that shall materially benefit the student; at the same time, however, the change has not been great enough to keep pace with the general advance of medical science. The name of Esquirol is now succeeded by those of Griesinger, Meynert, Westphal, a few other German writers, and a regulation list of English authors, and the courses of lectures are lengthened, but these changes are nearly all that we can record. When we look at the French and German schools and see the pathological and clinical investigations recorded in the courses of lectures and recitations in mental diseases, we are surprised at our own puny efforts. The introductory lectures, even, to some of these courses, show that they have received more study and attention than is bestowed on a whole course of American lectures. Yet Germany and France are far from being satisfied with their present achievements.

As a preliminary to the study of psychology, the student should have a thorough knowledge of brain anatomy and histology. The brain should not be simply an organ weighing forty-eight ounces, divided into hemispheres and convolutions, containing a few ventricles and giving off certain pairs of nerves, or a *terra incognita*, as is now the case. After understanding the brain, the various terms used in psychology should be made so familiar to the student that they could be used without a mental effort to call up their signification. Furthermore, the pathological appearances of the brain should be well understood from frequent dissections, both macroscopically and microscopically. In connection with this special knowledge of the brain, there should be combined a knowledge of the spinal cord and nerves.

A proper course of psychological medicine should extend over a period of two years,—recitations and not lectures being the form of instruction. These should be held two or three times weekly during the school terms. I think it is now pretty generally allowed that lectures are not by any means the best method of instruction, especially where the student is obliged to daily assimilate a large amount of new knowledge. It is impossible to concentrate the attention closely hour after hour on lectures often dull and prosy. Furthermore, the knowledge so acquired is piece-meal, fragmentary and hazy in the student's mind; he has no means of definitely knowing how much he has learned. Not one lecturer out of ten, on medical subjects, has the gift of an interesting delivery, and this is not strange, since lecturers are selected for their knowledge of the subject, alone. In recitations the mutual relations of the teacher and student are quite changed; the student now becomes a cross-questioner instead of a dumb listener, thereby very effectually stimulating the teacher to put forth real strength to supply knowledge. By means of recitations a poor teacher is very soon discovered and disposed of, but a poor lecturer may be allowed to drag his slow length along for years.

The course should begin with a general study of man in his social relations, and the character of the healthy individual should be considered from as many points of view as possible. The student should acquire the habit of weighing character and disposition, and should have extended ideas of the best means of training and developing the human mind. The progress of civilization should be carefully analyzed for the purpose of discovering why

those causes which tend to elevate and purify the soul, destroy or weaken the mind. We often hear moral philosophy laughed at and spoken of as being of little service as a means of investigating mental disease; but it seems to me that in order to grasp the subject of insanity thoroughly we must endeavor to understand purely psychical phenomena as well as physical manifestations.

The best text-books, whether in English, French, or German, should be selected to read and recite from. The student should become practically acquainted with all the various forms of mental disease; the various departures from health being demonstrated and contrasted with types of perfect health; the slight shades and differences being carefully portrayed. Take a single individual case of melancholia. The subject's whole history, as far back as could be ascertained, should be detailed, his character carefully analyzed, and the slow progress of mental impairment traced step by step. It should be the endeavor of the teacher to find out every possible cause for the attack, and to so demonstrate the case that the student should have in his mind a clear picture of this type of disease, and of the causes—intellectual, moral and physical—which have served to develop it. By a full understanding of all these data, he would be enabled, when in practice, to defeat the earliest indications of a departure from health, and perhaps to avert a threatened attack of insanity.

To accomplish these results in the medical school, a material change in the methods of working in the insane asylum will be a necessity. As arranged now, superintendents have very little time for scientific work. Having myself lived in insane asylums, and knowing how arduous the routine work of the institution can be made, it is not difficult to understand how the medical officers can pass nearly their entire time in attending to this routine work. This department of asylum life is, no doubt, engrossing, but it is certainly making but little use of the material offered, for scientific purposes. The fact is, the scientific side of the work is partially lost sight of, as a consequence of a state of lethargy that exists to a greater or less extent in insane hospitals. These are very comfortable homes in every way, but hardly hospitals in the highest and best sense of the word. Why this apparent condition of lethargy has fallen on the superintendents, may be explained in this way: Forty years ago, a brilliant galaxy of specialists were to be found managing our insane asylums. Among them were Brigham,

Bell, Kirkbride, Earle, Awl and Ray; Dr. Jarvis was also working in the same field, though conducting a small private asylum. These men found reforms needed in many directions, but especially where the bodily comfort, and, therefore, the hygienic treatment of the body was concerned. Hence, they set themselves to work erecting buildings on improved plans, and in every way labored to furnish the individual care and attention, and the comforts of life, which before had been very nearly unknown in the treatment of insanity. It was a noble task, and required persistent fighting against public opinion, and was undoubtedly the special work which at that time could best promote the interests of the insane, and it should, and does, command our admiration. Not alone, however, in this practical direction was it that these men turned their attention; for the scientific work done by some of them remains, up to the present time, unequalled. Dr. Ray's work on "The Jurisprudence of Insanity," is one of the best extant; and Dr. Brigham wrote a very able book entitled, "An Enquiry concerning the Diseases and Functions of the Brain, Spinal Cord and Nerves," published in 1840. We are impressed by the scientific tone of this book, which gives one the impression that Dr. Brigham was a seeker after knowledge by practical investigations. For instance, in Section II., he says, "Is there any method by which we can determine the functions of different parts of the brain? If we were to judge from the vast amount of labor and thought that have been bestowed upon this enquiry, and consider how little has been ascertained, we might almost despair of succeeding by any further researches; but when we call to mind that within a few years some new and important facts have been made known,—far more than for centuries previous,—we ought to be encouraged to continue our enquiries." Dr. Brigham proposes the following methods for determining the functions of the brain:—

1. Chemical Analysis.
2. Dissection of the Brain.
3. Experiments on Living Animals.
4. Comparative Anatomy.
5. The Fœtal Condition and Growth of the Brain.
6. Pathological Observations.
7. External Examination of the Cranium.

We must certainly give Dr. Brigham the credit of being very much in advance of his time, for even now the number of hospitals

in this country, where the methods of research suggested by him are followed, is very small.

In speaking of this celebrated coterie of men, Dr. Edward Jarvis and Dr. Pliny Earle should not be forgotten. As a statistician, Dr. Jarvis is unsurpassed, and Dr. Earle, as a profound thinker and sound logician, has no equal among mental experts in this country. By his careful analyses of facts and figures, he has made discoveries which have given him a world-wide reputation, and placed him high in the rank of scientific men. His revelations of the fallacy of insane asylum statistics, have thrown a flood of light on the subject of the curability of insanity, and although all his deductions may not seem absolutely to follow his premises, they have already served to make hospital authorities more careful and accurate in compiling their annual tables.

The natural reaction from the achievements of these men, has been the lethargy, which I have already referred to. As is often the case, the victories of the strong have been followed by an era of rest, in which a race of weaker men have succeeded the victors, and been satisfied to continue the methods established by them. In so doing, they have lagged behind the rest of the scientific world, and now find themselves a long distance in the rear. It is hard for them to acknowledge that such is the case, but by a few individual efforts, we are made aware that there is an inner consciousness of the fact.

The times, then, demand that those very means of scientific investigation suggested by Dr. Brigham should be put into immediate use. Not only the state of scientific knowledge, but the very poor results obtained at present in the treatment of insanity, necessitate some changed form of treatment. To repeat the very often quoted words of Dr. Thurnam: "Of ten persons attacked by insanity, five recover and five die, sooner or later, during the attack. Of the five who recover, not more than two remain well during the rest of their lives; the other three sustain subsequent attacks, during which, at least, two of them die." Bucknill and Tuke modify this opinion in the last edition of their work (1879) by saying, "It would be more strictly correct, to say of eleven persons attacked by insanity, six recover and five die sooner, or later during the attack. Of the six who recover not more than two remain well during the rest of their lives; the other four sustain subsequent attacks during which at least two of them die."

The lack of time is the reason now generally assigned for the small amount of scientific work done in insane asylums. Clearly then, more time must be made a necessity, and as most asylum managers cannot be expected to realize the importance of allowing it, superintendents must ask for it, until their requests are acceded to. Superintendents can obtain more time at present by doing less general supervising, and employing larger staffs. In this connection the words of Clouston can be profitably remembered, namely that "it is the patient's turn for an innings now." We have heard of nothing but bricks and mortar, ornamentation and recreation, in asylums for twenty years; it is surely time to fall back on our almost forgotten employment of doctors. No doubt it is easier for a superintendent to carry on a hospital where he himself attends to the various details. While I do not think that the power should be taken away from him, it should be so largely done by the steward, that he should, as a rule, know nothing of the details, being appealed to somewhat as a Board of Managers now is. A standard should be preserved, but it should be medical; the superintendent, attending to professional duties alone, would naturally look into every department of the institution, but he should call the steward to an accountability. The latter should be the superintendent of household details. This new system of management might at first be difficult, as a somewhat similar system has been in times past, but let the superintendent have full authority, and he need not clash with the steward; the steward must stand second.

The staffs of assistant physicians could be increased, partly by the addition of paid assistants and partly by the employment of unpaid *internes*, appointed for terms of two years. This would be a means of relieving both the superintendent and assistants of much routine work. Instead of six hours of office work to two of ward duty, it would be directly reversed. Letters innumerable are now written and the greatest variety of school-boy details attended to by assistants, which might be equally well done by *internes*. Then, too, those often maligned clinical records could receive adequate attention. I have been surprised to find how little interest is taken in recording cases by some superintendents.

Dr. Von Steinen, a recent visitor to this country, has recommended among other suggestions, that superintendents should be appointed for a period of two years. I think this plan worthy of trial, though with our limited number of scientific medical men,

who would desire to take hospital positions, it would seem uncalled for to turn out a really good man who had assumed the position, and replace him by some one totally inexperienced. Such changes made too often would not be beneficial to the insane themselves.

Von Steinen lays stress on the importance of using our hospitals more for purposes of clinical instruction. The necessity has already been appreciated by many Americans, and undoubtedly, in the near future, hospital advantages will be made much more available. At present most insane hospitals are so far away from medical schools that they are reached with difficulty. It will undoubtedly be advantageous to have insane departments connected with the large city hospitals. In Boston, for instance, we feel the urgent need of such a department, since cases of insanity developing sudden violence are liable to be removed to the *Tombs*, and put into cells which are anything but proper places for the sick. To be sure, cases are now taken to our City Hospital, but there is no especial provision for them, and they may therefore create much trouble and confusion. We should have a separate building, on our City Hospital grounds, for the treatment of about fifty cases of insanity. Persons should be sent to this department for examination and early treatment, and there detained until in a fit condition to be transferred to one of the State hospitals. The material at this institution should be available for medical students, and the professor of mental diseases should either have charge of it, or be a visiting physician.

The importance of the study of the pathology, or morbid anatomy of insanity is very great. This branch has as yet received only limited attention in this country; yet there is no field in which there is more opportunity for brilliant work than in this. The specialty could make a reputation for itself in this one direction alone. We now find not more than a half dozen insane hospitals carrying on systematic pathological work. There are several reasons for this state of affairs. One is the want of time, to which I have already referred; another a lack of interest, and the third a lack of training. I have shown how more time may be obtained. The lack of training is also a serious obstacle to overcome. Medical education and insane hospital training have been of such a character in the past that the men who occupy the superintendencies, and, as a rule, their assistants, are unfitted to undertake pathological work. Therefore until the standard is raised paid special pathologists

should be employed. Not *amateur* pathologists with a host of other duties to attend to, but able, skilled men, who will devote their whole time to the work.

In small States, such as Massachusetts, the following plan, which I have recommended in a recent number of the *Boston Medical and Surgical Journal*, could be made to work successfully. The proper man having been found, he should be appointed State Pathologist, at a large salary, and give his whole time to his duties. He should each year reside in one of the hospitals. At the first one, he should make frequent autopsies, found a pathological laboratory and cabinet, and give frequent instruction to the medical officers in pathology, and the use of the microscope. The second year he should move to a second hospital, retaining general supervision of the first. By such an arrangement it is probable that he could establish a sufficiently good method which would enable the medical staffs to conduct the work themselves. With the knowledge which would then be possessed by the latter, valuable instruction could be given to students and the rich hospital material made properly serviceable. The pathologist would, of course, vastly improve the clinical records, for on their accuracy would largely depend the value of his deductions. In the future they should be mines of valuable information full of statistical data. Each patient should have his whole history recorded, while an inmate of the hospital, so that after his discharge it would present a tolerably complete picture of his disease and treatment while in the hospital.

II. ADULTERATIONS OF FOOD.

BY PROF. S. W. JOHNSON, OF YALE COLLEGE.

(Read September 9.)

Playing tricks upon our fellows is, statistically considered, a necessary element of human life, which no more can be eliminated from the sober and serious affairs of society at large than from the merry intercourse of children. Men are not only tempted by the pressure of poverty, or the love of luxury, to covet their neighbors' goods, and to enrich themselves unduly and unlawfully at their neighbors' expense; but they learn, or cannot unlearn to love cheating and abusing for the simple fun of the thing, and pursue brigandage in Greece, highway robbery in California, or hardly concealed adulteration of food and drink in London, not merely as a business to fatten upon, but as an entertaining occupation which, when the law undertakes to make it contraband, has in that circumstance an added zest.

Cheating in a bargain is so common that we accept a certain amount of it as a part of our statistics, and charge it regularly to the account of profit and loss. Since, perhaps, the largest number of our commercial transactions relate to the purchase and sale of food, — including condiments, which are as essential to the excitements of high civilization as food itself, and not excluding "drinks," which to the rapid civilizer are both food and spice, — it is natural, or inevitable that food, condiments and beverages, should afford a broad, productive and thoroughly worked field for cheating and falsification.

To read the many undeniably authentic, and the many more apparently true accounts of the tricks that are stated to have been practiced upon human food, here and there, formerly and recently, is really a shock to one unprepared for the dismal story. The revelations of the experts who have studied these matters, are of a sort to exasperate and enrage any honest citizen. Worse than that, they not only convince us that a great deal of other people's food is fraudulently made unfit for any human stomach, but they actually unfit our own stomachs, temporarily at least, for any food whatever.

A word as to the meaning of the term *adulteration*. It signifies debasing, corrupting, vitiating, falsifying or sophisticating by

mixture with baser materials. Etymologically the word appears to have originally meant the altering of anything by adding something else, and might easily have been written *adalteration;* but in its accepted sense and form it implies an altering that is fraudulent and injurious,—a tampering that, in the case of food, either cheats the consumer out of a part of his money, deprives him of a portion of the nutriment or the satisfaction he has a right to expect, or, worst of all, actually undermines his bodily health, and poisons by what should nourish and strengthen.

It is evident that there may be very slight and very harmless additions to food of matters not properly or not strictly belonging to it that cannot be regarded as adulterations in any other than a linguistic sense,—"adalterations" that cannot be made the basis of a legal complaint or cannot be punished by the judiciary tribunals, cannot in fact be the subjects of a legislative statute.

Again, certain additions to food that were originally fraudulent and gross adulterations, having been practiced without complaint for a long time, have acquired the sanction of use which exempts them from the charge of falsification or even makes them fairly respectable. The use of chicory in coffee is said to have been first practiced in Holland about a century ago, and for many years was a strictly-kept trade secret. When divulged it was, as it still is, denounced by many as a fraud, but many others had got to regard coffee mixed with chicory or chicory mixed with coffee as an improvement on the pure beverage. In consequence, chicory is now a regular and legal article of trade, and the manufacture of "package coffee," which always contains some and usually much of this material, is a business from which rather respectable people draw very respectable profits.

Knowledge of the nature and extent of the food-adulterations that have been is the first requisite in protecting ourselves from those that are or may be; and here follows a brief account of some of the most conspicuous falsifications which are said now to be or recently to have been practiced on a few common articles of diet.

The statements here made are many of them correct beyond question, others are given on what passes current as good authority, but the writer cannot in all cases vouch for their truth.

Wheaten flour, which makes the most palatable and nutritious bread, has long been the subject of falsification. The most usual and most harmless adulterations have been the flour of other

cheaper grains or seeds. Flour of rice, of barley, of peas, beans, buckwheat, and of doura or Egyptian millet, it is said, has been thus employed in England. It has long been a habit of many good housewives to add a small proportion of boiled potatoes to their wheaten dough in making bread, and this and similar mixtures are entirely proper in domestic bread so long as those concerned are satisfied; but in the hands of the British bakers, if we may credit English authors, the same practice has been adopted for the two-fold purpose of employing a cheaper flour and of retaining a greater percentage of water in the loaf. This mode of extorting larger profits from the public is justly regarded as an adulteration and a swindle.

A curious feature in British bread-adulteration is presented in the history of the so-called "cones flour." This is supposed to have been originally the flour of a particular variety of wheat which was sold to bakers for the purpose of dusting their kneeding troughs, as well as the fashioned loaves to prevent the dough from sticking where it was not wanted. It is evident enough that any flour that is fit to make dough of is suitable to restrain the adhesion of that dough, and what the peculiar merits of cones flour once were cannot be clearly made out. But cones flour, or "cones," as the bakers termed it, was speedily made the means of turning a multitude of dishonest pennies; and its sale and consumption increased enormously until some master bakers directed their journeymen to mix a bushel of cones with a sack of flour,—more than enough to fully test the "dusting" power of the "cones," one would suppose. In short, it appears that "cones" became the trade name of an article which was represented to have qualities serviceable in the manipulation of the baker's shop, but which was really a cheap and inferior flour, valuable for putting money in the pockets of miller and baker and for dusting the eyes of police and health officers. We may well imagine that when the millers began to commend cones to the bakers as an "artful dodge" to further the interests of the trade, the former represented pretty truly what was the real nature of cones at that time, and the bakers most likely thought that an invention which would enable them to get adulterating material under a respectable name was well worth paying for. So the millers thought, too, and soon cones became anything that would swindle the public and, if possible, the bakers also, and contained no wheaten flour at all, but was a mixture of the cheapest materials that could pass muster as a breadstuff.

It should here be remarked that Great Britain is the historic field of food-adulteration, because it has been the most fervent centre of all industries, of all commerce, of all modes of money-getting, and because the English people from ancient times have been the stoutest champions of personal liberty and free trade. So it has happened that those sovereigns or ministers who have tried to hamper industrial enterprise with burdensome restrictions have had an unhappy time of it, and the strict systems of inspection that have quite steadily ruled in other European countries have had weaker and intermittent hold on the British counterfeiter and corrupter.

In the reign of King John (1203) there was a proclamation throughout the kingdom for enforcing the legal obligations of assize* "as regards bread," and in the following reign (Henry III., 1266) the statute entitled "The Pillory and Tumbrel" (ducking stool) was framed to protect the public from dishonest dealings on part of bakers, brewers, vintners, butchers and others. This was the first statute or legislative enactment in which adulteration of human food is specially mentioned and prohibited. This statute was enforced with varying strictness for nearly 500 years until, in Queen Anne's reign (1710), it was repealed.

Since free trade was adopted in England that country has been the head centre of all kinds of adulteration. In 1860 the British Parliament began a series of enactments to prevent the adulteration of food, drink and drugs, and in consequence of the investigations that accompanied these enactments a large mass of literature on the subject of food-adulteration has been published in the English language. This literature consists in the record of the researches of scientific men and in testimony elicited in the courts from experts and detectives, as well as from adulterators grown rich enough to retire from business or induced by prospect of greater profits to turn state's evidence.

To return to bread-adulteration, the use of bean flour is said to have been resorted to in order to give due tenacity and lightness to bread made from damaged wheaten flour. Boiled rice was employed to increase the quantity of bread to be obtained from a sack of flour. A sack of two hundred and eighty pounds should yield, according to Letheby, ninety-five four-pound loaves; but

* By "assize" was meant regulation of the weight, quality and price of bread.

by adding three or four pounds of rice, boiled for several hours in as many gallons of water to the flour, at least a hundred four-pound loaves can be got,—a gain of twenty pounds of bread, or more than five per cent. By this use of rice or of boiled potatoes, which, being nearly pure starch, are perhaps even more effectual than rice, the bread is indirectly adulterated with water.

Inferior flour is produced in immense quantities from grain damaged by incomplete growth, by injury from wet in the harvesting or storing, by incipient sprouting, mould or mustiness, as well as by the presence of the seeds of other plants. Flour itself once good is damaged in transportation and in storage. The endeavor to make an apparently good bread from cheap or even damaged flour is probably the reason why certain chemicals have been widely used in the making of bread.

Liebig states in his "Letter on Chemistry" that "the bakers of Belgium discovered twenty (now sixty) years ago how to bake from damaged flour by adding sulphate of copper, a poison, to the dough, a bread in appearance and external properties as fine as from the best wheat flour. Alum has the same effect as sulphate of copper; when added to the dough it renders the bread very light, elastic, firm and dry, and the London bakers in consequence of the demand for white bread have been compelled to add alum to their flour. I saw (in 1840) in an alum manufactory in Scotland little mounds of finely-ground alum, which was destined for the use of London bakers."

To conceal its true nature, the powdered alum used to bear the trade-names "hards" and "stuffs."

Hassall not long ago asserted that "alum is used in bread-making nearly all over the United Kingdom." The proportion of alum used in England is said to range from three to twelve ounces to the sack of two hundred and forty pounds, according to the quality of the flour. These quantities have been sometimes exceeded, it would appear, for not only does the baker put alum with the flour he buys, in order to deceive his customers as to the quality of the bread, but the miller or flour dealer mixes alum into the flour he sells to deceive the baker.

However happy the effects of alum may be in improving the appearance of the bread and swelling the profits of miller and baker, the effects upon those who are obliged to eat such bread are liable to be most disastrous, if indeed they be not so inevitably.

A very little alum in bread may not prove immediately or seriously injurious, but no considerable amount of such a powerful astringent is required to disorder digestion and ruin health, as is shown by a vast array of competent testimony.

The use of alum in bread has not been confined to Europe. Some twenty years ago, Dr. Wetherell, of Philadelphia, examined twenty-four samples of bakers' bread of that city, and found alum in two instances. In 1873, Dr. Waller, of the Board of Health of New York, examined fifty-one samples of bakers' bread made in that city, and found six which were probably adulterated with alum and two with alum and sulphate of copper. Last year, Dr. Leeds examined a number of bakers' loaves sold in Hoboken, N. J., and in five cases found evidence of alum, which in one sample amounted to twenty-three grains to the four-pound loaf. The writer has investigated half a dozen samples of bakers' bread made in New Haven, Conn., without finding either alum or sulphate of copper. It is possible that the comparative immunity from bread adulteration under which we mostly suppose ourselves to be living is but imaginary, and that falsification is actually practiced, and remains unknown because the real facts have not been ascertained by thorough and systematic investigation.

The use of alum for making — out of flour which of itself would give a dark, sticky, sodden bread — a white and flaky loaf, is not a recent invention. "In the days of Henry VIII. of England, it was ordained that his Highness's baker shall not put alum into the bread, or mix rye, oaten, or bean flour with the same, and if detected he shall be put in the stocks."

Whether or no alum is mixed by the baker with our daily bread, it is a fact that alum or its equivalent is, or recently has been, an ingredient of some of the substitutes for yeast which are so largely employed among us. Yeast itself is a microscopic plant whose growth in wheaten dough generates carbonic acid gas, which inflates or "raises" the loaf. The use of chemicals mixed with the flour that will yield the same gas answers the same purpose, and has the advantage of shortening the time and lessening the labor of preparing bread. The chemicals best adapted in all respects for carbonating dough in the kitchen are cream of tartar (bitartrate of potash) and soda saleratus (bicarbonate of soda), and these two salts are the active ingredients of the best "baking powders." But as the supply of cream of tartar is limited and its cost is con-

siderable, various cheap substitutes have come into use. One of the cheapest that can be employed is alum, or the sulphate of alumina, which mixed with bicarbonate of soda produces carbonic-acid gas abundantly, but contaminates the bread with an injurious or even poisonous substance. In 1878, Dr. H. A. Mott, of New York, stated that the "Patapsco baking powder" contained twenty per cent. of burnt alum or its equivalent, the "Andrews" twenty-two and a half per cent., "Dooley's Standard Baking Powder" twenty-six and a half per cent., and "The Charm" thirty per cent. More recently Dr. Mott asserts that twenty-three brands of baking powder examined by him contained alum or a similar sulphate of alumina.

Before quitting the subject of alum in bread, I ought perhaps to say that the effects of it upon the consumer have been much discussed, and some chemists in Europe, and I believe in this country also, have defended its use. Doubtless people may survive the long-continued ingestion of small quantities of alum, as of almost any poison, but the correct principle to adopt in fixing upon a standard of purity in case of all articles which are understood to be essentially nutritious, is to stigmatize as deleterious adulterations the addition of even the smallest quantities of any substance which has decided poisonous or injurious effects. The recently published experiments of Dr. Mott, made upon dogs, are sufficient demonstration that bread containing alum is a highly dangerous article of diet.

Baking powders are also largely adulterated with *terra alba*, which is a trade name for several sorts of white earth, being sometimes ground gypsum (plaster of paris or sulphate of lime), sometimes carbonate of lime (whiting), and sometimes pipe clay (kaolin). The cream of tartar and the saleratus sold by grocers are also often grossly weighted by admixture with worthless *terra alba*.

If the wheaten flour and the wheaten loaf are thus adulterated, we should expect to find that other cereal foods are similarly falsified. So it has happened in Great Britain, especially in Scotland, that oatmeal — which is a standard diet in prisons, workhouses, and charitable institutions — is extensively mixed with cheaper barley meal, rice, flour, and even Indian meal. Thirty years ago there was a famine in the Scotch Highlands, and some $300,000 was devoted to supplying the needy Highlanders with food. One

of the contractors who supplied these unfortunates with oatmeal was suspected of adulterating the article, and was brought to trial. It was shown that the oatmeal was grossly mixed with bran and thirds (cheap horse-feed). The offender was convicted and punished, but he brought forward some of the principal millers of Glasgow to swear that the practice was quite common, — was, in fact, one of the usages of the trade.

Arrow-root is a variety, or rather includes several varieties, of starch obtained from tropical plants. When genuine it naturally costs with us more than the starch now made so abundantly from potatoes and especially from Indian corn. But commonly arrow-root is not genuine, and consists largely or wholly of the cheaper starches of home production. So far as nutritive or medicinal value is concerned, corn starch is doubtless, in every sense, equal to genuine arrow-root, but it nevertheless is a fraud to sell corn starch under a false name at a "fancy price."

Sago and tapioca originally were preparations of starch made in the Indies or Brazil, but now they are perfectly imitated on a large scale from potato and corn starch, and the imitations are every whit as good as the genuine, and being in large demand, are sold at a price that is not unreasonable.

Next to bread, milk ranks in importance on the list of foods that are subject to adulteration. We have it on good authority, that milk, after being robbed of its cream, and diluted with water to cheapen it, has been mixed with sugar to sweeten it, with salt to develop its flavor, with annatto and turmeric to improve its color, with soda and chalk to keep it from souring, with gum, dextrine, emulsion of hempseed, boiled starch, and even, in a single instance, pulverized brains to thicken it.

The most common adulteration of milk is by the addition of water, and where there is no milk-inspection, this, and the removal of cream are the only usual modes of tampering with it, unless soda is added to keep sweet what otherwise might sour before it could be disposed of.

In 1869 and 1870, Prof. Chandler, now President of the Board of Health of New York, directed examinations of five hundred and fifty samples of the milk of that city. The only adulteration that could be detected was water. In forty-five cases, milk was seized by the police at the moment when it was undergoing the process of dilution. By chemical analysis, or by the use of the lactometer

(lactodensimeter), the quantity of water added was ascertained, and the average amount found to be over twenty-six per cent., or, for every three quarts of milk, one quart of water was sold. It was estimated that in this way forty million quarts of water were annually peddled out at the average rate of ten cents per quart, making "business" to the amount of $4,000,000 per year, or $12,000 per day.

Some one has stated, I know not how correctly, that the number of cows that not long since supplied milk to London, was insufficient to give to each inhabitant of that metropolis, more than a table-spoonful of pure milk daily. In Boston, during the last winter, the legislative committee on agriculture had a hearing on the matter of milk-adulteration. The State Assayer was present with two samples of milk, one genuine, the other diluted with twenty-five per cent. of water and colored with a trace of annatto. In appearance, both were equally good, and both bore the same test by the lactometer, — *i. e.*, doubtless the specific gravity of the falsified sample had been first increased by removing the lighter cream and then lowered to the standard of pure milk by adding heavier water.

This refinement in adulteration, which originated years ago in Europe, is the result of legislative action that has made tampering with milk a misdemeanor, but has not provided adequate methods for detecting evasions of the law or sufficient punishment for the offenders; but has the effect to put dishonest dealers on their guard, and to make them more careful to conceal their misdeeds.

From adulterated milk we naturally turn to adulterated butter. Curiously enough the most common adulterant of milk, viz, water, is largely employed in sophisticating butter. Honest butter rarely contains more than six to ten per cent. of water, but the "butter factors," it is said, understand how to increase the proportion up to thirty and even forty per cent. Salt, which should exist in good butter to the extent of not more than one and a half to three per cent., is worked in to the amount of six, eight or more per cent. Boiled starch has also been employed to "extend" very cheap butter. Butter is not infrequently sophisticated by admixture of cheaper animal fats, namely, tallow and lard.

There has recently grown up among us, a new industry which is of itself perfectly legitimate, but which readily "lends itself" in materials, if not in morals, to the business of butter-adulteration.

I referred to the so-called oleomargarine manufacture. Oleomargarine is simply beef-tallow deprived of a portion of the more firm and infusible fats, and thus made to approach the consistence of butter, in further imitation of which, it is mixed with milk and annatto and churned, the result being a product that when made in a cleanly manner is a fair substitute for butter for all cooking purposes, and is superior to cheap butter for any purpose. Sold as oleomargarine this article is well enough, being entirely wholesome and nutritious, and much cheaper than good butter. In England, however, it is known as butterine, and in conformity with the suggestions of this significant designation it enters into not a little of the butter of commerce, or docked of the last syllable of its name, is sold as butter, pure and simple. It is stated that oleomargarine, or mixtures in which it was the predominating ingredient, have passed as genuine butter, and borne off high prizes in some of our recent dairy fairs. I cannot vouch for the truth of this statement, but do not regard it as altogether improbable.

In the manufacture of cheese it is said that boiled potatoes, boiled beans and oleomargarine are sometimes used to make weight, venetian red and red chalk to color the rind, and sulphate of copper, arsenic and corrosive sublimate are externally applied in minute quantities to prevent the lodgment of parasitic insects.

Lard, a substance used in every kitchen, has sometimes been found to contain twenty to thirty per cent. of boiled starch with two to three per cent. of alum and one per cent. of quicklime. The starch is simply a vehicle for incorporating water with the lard; the lime and alum are probably used to prevent the water separating from the mixture and to hinder the growth of mould.

Of the great food staples, sugar is one with regard to which some alarm has recently been raised. It has been widely published that our sugars are largely diluted, cheapened, and even poisoned by mixture with *glucose* and injurious metals. In respect to white granulated sugars this is, I believe, neither true nor likely to be so. Pulverized white and fine grained brown sugars are liable to be adulterated with glucose, but I am not positive that this falsification has been much practiced.

With syrups the case is doubtless otherwise. Syrups are now made from Indian corn, consisting entirely of glucose, using that term in its commercial sense, and these are or may be employed for adulterating what we commonly regard as genuine syrups.

These corn syrups are cheaper than those which come from the sugar cane. When skilfully made they are not inferior in appearance and, though less sweet than cane syrups, they are perfectly palatable and equally nutritious and healthful. Glucose, like oleomargarine, is a perfectly legitimate object of production and an entirely wholesome article of food. Its artificial formation from the starch of corn by the action of acids in the Buffalo and Chicago manufactories, is quite in imitation of the natural process of digestion in the human stomach. In fact all the starch of our food, it is believed, must be transformed into glucose before it can enter the blood and serve as nutriment. Corn syrups are now extensively made and consumed in our Western States. They are usually, I believe, and always may be free from anything poisonous or hurtful to health. Cases are on record in which they have contained injurious metals, but these are probably the result of accident or carelessness, and are no more a necessary incident to the manufacture of glucose than to that of cane syrups.

I have once met the complaint that white sugar was mixed with a suspicious looking blue substance in the form of powder. This was the harmless pigment known as ultramarine blue. The purest cane or beet sugar that can be obtained by the refining processes now used has in itself a disagreeable yellowish tint. This tint is neutralized optically by adding to the sugar a very small ordinarily quite unnoticeable proportion of ultramarine, which, therefore, greatly improves the whiteness and beauty of the sugar. This addition is in the most strict sense an adulteration, but evidently common sense as well as long established usage relieve it from that odium unless, as was true in the case complained of, the quantity added is excessive.

Within a year or so the public has had a scare as to the presence of *tin* in sugars and syrups. In fact solutions of tin—the so-called muriate of tin—are employed by some sugar manufacturers in the process of refining, and a portion of the tin may remain in the sugar and especially in the molasses. The quantity of tin thus remaining is in most cases excessively minute, and not likely to occasion injury to health.

Confectionery includes a class of articles that may be regarded as very liable to adulteration. Candies have been made and sold having all the colors and tints of the rainbow, and owing their colors to nearly all the mineral poisons that are known to the arts.

Chromate of lead has been used to give sugar a yellow and an orange color, red-lead and vermilion to produce red tints, Prussian blue and the vegetable poison indigo to make blues, while copper and arsenic have been used for producing greens. These poisons and almost every kind of known pigment appear to have been used formerly in England, especially in the decoration of sugar dogs, cats and other saccharine statuary, in the construction of which we might credit the workman with forgetting the utilitarian notions that would influence the mere candy-puller, as well as all the maxims of sanitation and toxicology, in the enthusiasm that art begets in its devotees, were it not for the fact that the more expressionless and amorphous the image, the more *terra alba*, pigment and poison it is sure to carry. The employment of the deadlier poisons in making confectionery has no doubt been oftener the result of ignorance than of intention, for evidently the most depraved candy-maker can have no object to kill his customers outright. Slow poisoning would seem fully to answer his purpose, for Dr. Endeman, Chemist to the New York Board of Health, in numerous examinations of the confectionery on sale in that city, found in them no compounds of copper, mercury or arsenic, although chromates of lead, lime and baryta were recognized in the yellow sorts, and Prussian blue, ultramarine, lampblack and various vegetable colors were commonly used; while to give weight as cheap substitutes for sugar, gypsum, starch and white clay were employed. The obvious lesson of these facts is to avoid colored confectionery, and especially cheap confectionery. It might be added, "Avoid all confectionery," but that advice like much other, is least heeded where most needed.

The adulteration of fresh meats finds its field in sausages, potted or canned meats and meat pies. An English health officer, of a town near Manchester, said some twenty-five years ago: "We have in Newton five knackers' yards and there is only one in Manchester. The reason is they have so much toleration in Newton, and it has been a source of great profit to them because they have the means of selling the best portions of the horse flesh to the makers of potted meats. I can say for a fact that the tongues of horses and the best portions, such as the hind quarters of horses, are generally sold to mix with collared brawn, or pigs' heads, as they are called with us, and for sausages and polonies (Bolognas). I understand also, from those who have been in the habit of making them, that

horse flesh materially assists the making of sausages,—it is a hard fibrine and it mixes better and keeps them hard and they last longer in the shop windows before they are sold, because otherwise the sausages run to water and become soft and pulpy." Whether the current traditions as to the use of other domestic animals in sausages are correct the writer cannot say, nor is it positively known whether the sausage makers are at the real bottom of the evidently organized opposition to the enactment of satisfactory dog laws. It is just conceivable that legislation on this subject has been blocked hitherto, simply because mutton is not fit for sausages until it has become dog! As to meat pastries in this country, there is no authentic information to be had, but the consumers of these delicacies in our great cities would do well to ponder the significant words of Mr. Samuel Weller.

"'Weal pie,' said Mr. Weller, 'wery good thing is a weal pie when you know the lady as made it, and is quite sure it ain't kittens; and arter all though, where's the odds, when they 're so like weal that the wery pieman themselves don't know the difference? I lodged in the same house with a pieman once, sir, and a wery nice man he was — reg'lar clever chap, too — make pies out o' anything he could. 'What a number of cats you keep, Mr. Brooks,' says I, when I 'd got intimate with him. 'Ah,' says he, 'I do — a good many,' says he. 'You must be wery fond o' cats,' says I. 'Other people is,' says he, a winkin' at me. 'They' (the pies) 'are all made of them noble animals,' says he, apointin' to a wery nice little tabby kitten, 'and I seasons 'em for beefsteak, weal or kidney, 'cording to the demand.'" It is possible that these observations originally calculated for a longitude near Greenwich, may apply to the meridians of New England or New York.

The articles most extensively adulterated are such as are employed not so much for the nutriment they furnish as for their appetizing or stimulating effects, which bring them into the class of luxuries. Everything of this kind, it would appear, is liable to falsification.

Pickles, for example, properly consist of cucumbers, cauliflower, young beans or other vegetables preserved in pure vinegar of good strength with no addition beyond salt, mustard or pepper. If you want such pickles you had better make them, for they are not easy to buy at economical rates. Unfortunately they who

make their own pickles, following the directions of the older cookery books or practising after the examples of our grandmothers, furnish the cue to the adulterators. It was and still is a custom among New England housewives to prepare their cucumber pickles by boiling the vinegar in a brass kettle, or by steeping the cucumbers and vinegar together in brass, until they acquire a nice green color from the dissolved copper, adding also a lump of alum to make the pickles firm and crisp. In making pickles for the market, such as you may eat with your oysters at the common restaurant, diluted sulphuric acid is used in place of most of the vinegar and the dose of copper is administered in the shape of verdigris, or blue vitriol, while alum is of course added in liberal measure. These pickles are cheap, they are crisp and brittle and of a fine color, although very unpalatable to those who know what a good pickle is, and if eaten in any considerable quantity are dangerous not only because they are indigestible but because they are loaded with metallic poison. Instances of the fatal results of their use are on record. Dr. Hassall states that in the examination of twenty-three samples of London pickles of various kinds, he found in most cases the vinegar very weak; in nineteen instances a good share of their acidity was due to sulphuric acid; sixteen samples contained copper, three in very considerable amount, one in a highly deleterious and two in poisonous quantities.

Vinegar as retailed for household use is mainly adulterated with water to cheapen it, with sulphuric acid to make it sour, and finally with burnt sugar to restore the color lost by dilution. The use of sulphuric acid as an adulterant has led to the introduction of arsenic into vinegar, especially in England, where sulpuric acid is largely prepared by help of metallic ores which are frequently arsenical. This, however, sounds worse than it really is, because the sulphuric acid contains but a very little arsenic, the vinegar contains very little sulphuric acid, and people commonly swallow very little vinegar at a time. According to the testimony of a Mr. Gay, which was given in London, before a Parliamentary Commission in 1855, "corrosive sublimate has been used for years in some houses, and not a cask (of vinegar) has gone out without a certain proportion of corrosive sublimate."

Chairman — "Do you believe that corrosive sublimate was mixed with the vinegar in injurious proportions?"

"I do. It was done to give strength to the vinegar. When the D. W. and the O. V. have been used, the corrosive sublimate is put in to give a tartness again in the mouth."

Chairman — "Are these technical expressions in the trade — O. V. for oil of vitriol, and D. W. for distilled water?"

"Just so. Corrosive sublimate is called 'the Doctor.'"

Mustard is an article that appears to be nearly always adulterated. Not only is ordinary grocer's flour of mustard often so weak that a poultice made of it will not irritate the skin unpleasantly, but the "genuine mustard" sold by apothecaries is far from pure. The ordinary treatment which mustard receives at the hands of the "manufacturer," consists in mixing it with twenty to fifty per cent. or more of wheat flour, and then with enough ground turmeric to restore the appropriate yellow color. Thus far the adulteration is not so serious, because the diluted mustard answers all the purposes of a condiment or even of a poultice, but the mischief thus begun soon grows to formidable dimensions. Mustard itself, which, unground, may cost perhaps five dollars per bushel, is largely substituted by insipid charlock seed, costing but two dollars, cayenne and ginger being added to give it "bite." Instead of wheat flour, ground rice, plaster of Paris and pipe clay are used to make bulk and weight, and instead of harmless turmeric, yellow ochre or even poisonous chromate of lead is employed as color.

Pepper, black and white, — the former made from the entire pepper berry, the latter from the same after the external husk is removed, — were formerly adulterated in the most scandalous manner. In 1851, Hassall examined forty-three London samples, nearly one-half of which were sophisticated. He found wheat flour, linseed meal, mustard husks, pea flour, rice flour, sago and pepper dust or P. D. This last is either the sweepings of the warehouses, or an article made in imitation of ground pepper expressly for this adulteration. The chief chemist employed in the British Customs Department, stated before a Parliamentary Committee, in respect to the falsification of pepper that out of 1,116 samples examined, 576 were adulterated. "We found," he said, "rice, sago, potato-starch, linseed meal, capsicum, husks of red and of white mustard, wheat flour, bran, and ground gypsum." Other adulterants have been bone-dust and saw-dust. Of a hundred pounds of an article seized at Chelmsford, England,

as pepper, in 1852, two pounds only were pepper, the rest being mustard husks, rice, and cayenne.

As long ago as 1820, Accum, a German chemist, established in London, described artificial pepper-corns, which he states were made of linseed-cake, common clay and a little cayenne formed into a mass, granulated by being pressed through a sieve, afterwards dried and finally smoothed by rolling in a barrel.

I can only briefly enumerate the adulterations of all condiments and spices. Cayenne is worse falsified than white and black pepper. Of twenty-eight London samples, Hassall found only four that were genuine. Twenty-two contained mineral coloring matter, thirteen got their color mainly from red lead, seven from red chalk or red ochre, and in one vermillion (sulphide of mercury) was present. Ground spices are not only adulterated by adding flour and starch of various kinds, but cheap cassia is substituted for costly cinnamon, and both are robbed of a good part of their flavoring principle, the valuable volatile oil. Worm-eaten and worthless nutmegs are skilfully repaired by stopping the holes with a suitably compounded cement, and not only are wooden nutmegs traditionally credited to "Down East," but a distinguished Frenchman asserts that the workmen of Marseilles have fabricated false nutmegs, insipid and inodorous, out of bran, clay and the powder of nutmegs too decayed or wormy for repairs!

Tea and coffee, which involve such enormous industrial and commercial interests, have been, as every one knows, falsified on a vast scale. The adulterations of tea appear to have originated in China itself. They were at one time extensively practised in England, but as the duty on tea was gradually reduced, the business of adulterating became less and less remunerative, until it is said to have nearly altogether ceased in that country.

According to Hassall, the adulterations resorted to in China are of four classes: First, with leaves of several kinds of other plants; second, with Li-tea. This is an imitation of tea with most or all of the tea left out, and is compounded of various mixtures to resemble the different sorts and grades of genuine tea; third, with mineral substances, to give weight, and fourth, with pigments and "facing" to improve the color and lustre of the article.

When thirty to forty years ago, high duties were exacted on teas imported into England, regular tea factories existed in London,

Liverpool, and other large cities, — some dozen, it is believed, in all. The industry carried on in these factories, consisted partly in buying up tea-grounds at hotels and coffee-houses for two or three pence per pound, giving them a coating of gum-water, tannin and copperas, drying, and if meant for black tea, "facing" them with rose-pink and black lead, or if for green tea, with Prussian blue and chrome yellow, or similar and worse pigments. Another part of the business was converting the leaves of all manner of British trees into false tea, or, as the Chinese are said to frankly designate it, *lie tea*.

In 1843 the London excise officers seized some tea containing thirty-five per cent. of a fearful poison, carbonate of copper. In 1845, tea was confiscated at Manchester, in which chromate of potash, an active poison, was used as facing, and on the premises were found mixtures, evidently meant for facing tea, containing chromate of lead and arsenite of copper, the latter quite like Paris green in its effects on the animal economy.

Coffee has long been, and still is, extensively adulterated with chicory, burnt sugar and parched peas, beans, barley, rye, wheat, and peanuts. Roasted carrots, potatoes, parsnips, and beets, roasted acorns, spent tan-bark, spent logwood, mahogany sawdust and baked horses' liver are some of the other substances that have been identified in the ground coffee of London. Chicory, as already remarked, has established itself as a regular ingredient of package coffee, and such coffees not infrequently contain little else besides chicory and roasted grain or vegetables of some sort. In 1850 Messrs. Duckworth, of Liverpool, are said to have taken out a patent for moulding chicory in the shape of the coffee berry. English law at that time put no restriction on the sale of chicory. The use of chicory is supported by the fact that many persons prefer a mixture of coffee and chicory to pure coffee. The writer has personal knowledge of two cases where ladies having drank coffee that greatly pleased them in first-class restaurants, and having asked how such coffee could be procured, were supplied with recipes in which certain grades of coffee and a certain proportion of chicory are directed to be used. In fact, such mixtures are supplied to order by the best grocers of our large cities. It is asserted that chicory is universally an ingredient of the finely flavored coffee that one finds in the *cafés* of Paris, Vienna and other European capitals, and there are gentlemen in New England who, having cultivated

chicory and used it in their coffee, freely express their preference for the mixture. In these cases, however, the chicory is kept duly subordinate to coffee, and good coffee at that, while in the "package coffee," peas, rye, and chicory have largely the upper hand, and the coffee is small in quantity, and that little of the poorest.

The demand for chicory has become so great, that it is not only a staple product of agriculture in most European countries, and cultivated to some extent in this, but it has come itself to be the subject of extensive falsification with all the adulterants which are employed in the cheapening of coffee. Mr. Gay, who, once a manufacturer of mustard, coffee, etc., on his own account, afterwards was put in charge of Her Britannic Majesty's Commissary Department, made the following statement befor the Parliamentary Commission on Adulteration, in 1855: "I remember one year, when chicory was worth £21 per ton, manufacturing seven hundred tons of carrots into chicory. They were grown by one gentleman in Surrey, and supplied to the house where I was; and, also, three hundred and fifty tons of parsnips."

But, space is lacking to make further recital of the dreary history. Enough has been written to exhibit pretty fairly what human ingenuity and inhuman selfishness and recklessnes have accomplished in the sophistication of human food.

The serious question naturally comes up: Are we in these United States liable to suffer in purse and health from the adulterations that are now practised upon our food? The reasonable answer to this question must be a qualified negative.

Generally speaking, we are not suffering serious loss of goods or of health. This answer is justified by the investigations that have been made in New York, Boston and other places, which have not revealed very wide-spread or injurious adulterations, except in case of milk, baking powders, and a few articles already instanced. The writer's occasional examinations of staple articles sold in the city of New Haven, have failed to disclose any deleterious or extensive tampering with food except in case of coffee, mustard and pickles, and in these instances, usage — general and well-known usage, I might say — either to a degree excuses the fault or puts us on our guard. Indeed, it rarely happens that those who demand a good article and are willing to pay a fair price fail to get what is genuine and wholesome. Some excellent people whose

apprehensions have been unduly excited, would have us believe that we are really defrauded and poisoned in a wholly reckless matter, on every hand. To understand what belongs to the numerous substances now employed as human food when genuine requires a special education which only experts can possess. To follow these foods into their manifold sophistications is another and more difficult education, and probably the fingers of one hand would suffice for reckoning the number of analysts in the United States, who today are competent to expose with accuracy and certainty the various adulterations that are liable to present themselves in the great cities of the civilized world. It is therefore not to be wondered that the extent and enormity of the evil we are considering should be either unsuspected on the one hand or exaggerated on the other. The lawyer who in the line of business charges a prosecuted manufacturer with every misdemeanor that his imagination can in any way associate with the defendant's business; the rostrum reformer, who in the line of business magnifies his calling and everything within call; and the capable reporter, who in the line of his business writes down faithfully what the logical advocate and the eloquent reformer utter, or what he thinks they ought to utter, are of those who have scared the public with overdrawn pictures. As a mild specimen of these exaggerations, I may adduce an extract from the Boston *Morning Journal* for July 28, 1880, which reads as follows:—"*The Adulteration of Sugar.*—A recent lawsuit in Buffalo brought to light the method and the extent of the adulteration of sugar by means of glucose. It was brought to light that a single establishment in that city consumed six thousand bushels of corn in the manufacture of sugar, and the syrup called glucose, used by sugar and syrup dealers, confectioners, and so forth, for the purposes of adulteration. In the process of manufacture, three tons of sulphuric acid are used daily. Sulphuric, muriatic and nitric acid are extensively employed in extracting the sugar from the corn. One gets an idea of the virulence of these poisons from the statement that they so rot the timbers of the factory building, where the process is carried on, that men are constantly employed in making repairs. The concern involved in the trial, sell $100,000 worth of sugar and glucose per month. The color of the sugar is white, and by mixing it with cane sugar, the latter is given a lighter color and commands a better price. One of the witnesses in the case,

Mr. Nichols, of Brooklyn, a manufacturer of acids and an agent for the sale of the sugar and syrup, testified that the adulteration is very extensively practised in New York, and that the sales of such sugars exceed that of the pure. The inventor of the method of manufacture testified that a bushel of corn weighing fifty-six pounds will yield thirty pounds of sugar, and that the average net profit on each bushel of corn is between forty and fifty cents. The adulterated sugar offered to the public is known as the 'new process sugar.' This sugar looks better than the old-fashioned brown sugars, but has less sweetening quality and is regarded as injurious to the health."

This honest sounding paragraph contains or implies a number of untruths, some of which directly exaggerate the matter of adulteration, while others assist to demonstrate the general inaccuracy of the paragraph, and its total worthlessness as a piece of evidence.

Let the reader review the first and second sentences, and observe that they are so framed as to convey the idea that glucose—the sugar and syrup obtained from corn—is made in immense quantity for the purpose of adulteration and for no other purpose. No hint is conveyed that glucose has legitimate, well-established and extensive uses, which cannot by the strictest interpretation be properly regarded as in any sense fraudulent or of the nature of adulteration. Such is, however, really the fact, and the glucose manufacturer is not necessarily more responsible for the adulterations of sugar than the potato-grower is for the falsification of arrow-root. Read again the next three sentences and note how much, how many and how virulent are the "poisons employed in extracting the sugar from the corn." Three deadly acids, one of them used to the extent of three tons daily, which so rot the timbers of the buildings that they require constant repairs! Is the sympathetic reader likely to avoid the conclusion that these poisons impregnate the glucose with their virulence? But in fact the consumer of glucose is no more hurt by the acids used in its manufacture than the dweller in a finished house is bruised by the bricks, burned by the lime, smothered by the cow-hair, or pierced by the nails that are incidental to its construction. Nay, the householder may be bruised, smothered and scratched by the materials of his house, but the glucose-eater can scarcely suffer from these acid-poisons in his sugar, for after they have served to transform starch into glucose they are so completely neutralized as

not to be acids at all, and so far separated as not to be poisonous even if they remained acids. The paragraph informs us what was testified by "the inventor of the method of manufacture," as if this industry were a very recent development, while in fact the discoverer of the method never saw this continent or this half-century, and the manufacture in all its essentials has long been carried on. Finally we are informed that this sugar "is regarded as injurious to the health." That glucose is not injurious to health, and that the man does not live who is not both a consumer and, in his digestive organs, a constant producer of glucose, I have already insisted upon. In the face of these inaccuracies we may reasonably doubt the statement that the sales of adulterated sugars in New York "exceed that of the pure," until evidence of a better quality is offered.

In commenting on this paragraph, I would add that the blunders it contains are, all of them, such as would most naturally result from the operations of the court room and the reporter, unless all concerned in eliciting testimony, and putting the essence of it in popular form, were experienced technical experts.

Another newspaper cutting that for some years has ornamented the writer's scrap book, was taken from a Rochester, N.Y., paper, and is as follows:—

"*How Bar-Room Liquors are made.* There may be seen daily on Chestnut street, says the Philadelphia *Bulletin*, a man dressed in faultless apparel, with a great diamond on his breast, vainly endeavoring to outglitter the magnificent solitaire on his finger. In one of the German universities he learned chemistry and not even Liebig knew it better. His occupation is the mixing and the adulteration of liquors. Give him a dozen casks of deodorized alcohol, and the next day each of them will represent the name of a genuine wine or a popular spirit. He enters a wholesale drug store, bearing a large basket upon his arm. Five pounds of Iceland moss are first weighed out to him. To raw liquors this imparts a degree of smoothness and oleaginousness that gives to imitation brandy the glibness of that which is most matured. An astringent called catechu, that would almost close the mouth of a glass bottle, is next in order. A couple of ounces of strychnine next called for are quickly conveyed to the vest pocket, and a pound of white vitriol is as silently placed in the bottom of the basket. The oil of cognac, the sulphuric acid and other articles

that give fire and body to the liquid poison are always kept in store. The mixer buy these things in various quarters. They are the staples of the art."

I have omitted to touch upon the adulteration of alcoholic drinks, not because those beverages are not food properly speaking, but because they open a branch of my subject which would require a special article for its adequate treatment. The above quotation will be used simply to further illustrate the popular exaggeration which we owe to much fine writing and little exact knowledge. The description of how bar-room liquors are made is not by any means destitute of truthful features. The man, the occupation, the deodorized alcohol, the Iceland moss, the catechu, the oil of cognac are true to nature or to "the art," but the "couple of ounces of strychnine"—it is simply incredible! A quantity of strychnine so minute that it can have no poisonous effect whatever gives to alcohol or alcoholic drinks an intense bitter taste. The only bitter beverage in use is beer. Some thirty years ago the British public was thoroughly alarmed at the assertion that British beer was made bitter by this deadliest of vegetable poisons. The question of adulterated and poisoned beer, as is well known, receives very different treatment in Old England from what is accorded to it in New England. The government ordered an investigation. Three of the ablest chemists of the country, including the master of the mint, made a most elaborate and exhaustive research, first into the methods of detecting strychnine in beer, and second into the existence of strychnine in the beer sold in England. They proved first that the minutest quantities of strychnine can be detected in beer, and second that out of a multitude of samples of beer taken in the shops of London, not one contained any trace of this poison. The writer has first and last been called upon to examine for strychnine some twenty samples of distilled liquors, taken from various drug stores and "rum shops," high and low, in the State of Connecticut, and has found no evidence of its presence; and there appears to be no foundation whatever for the belief so widely prevailing among professional teetotalers and their disciples that strychnine is or ever has been put into any alcoholic drink that was simply intended for use as a beverage. To put strychnine into distilled liquors would render them undrinkable before it could constitute them poison. To add to it beer in poisonous quantity would tend to kill the consumers and spoil the sale.

But after making all needful allowance for the exaggerations that are incident to the ventilation of any abuse, this abuse remains a rooted fact of our social status, and while in general the well-to-do and the intelligent need not be greatly alarmed at the present prevalence of this evil, it still is true that the prudent who will buy economically, the poor who will buy cheaply, and the ignorant who buy blindly are liable to suffer, especially in our large and closely populated cities.

The milk of New York and Boston has been in former years fearfully diluted because the supply has been at times inadequate, and the cheat is one that cannot be detected easily and positively by the ordinary consumer. In New Haven, where producers and consumers meet face to face, and where the supply is abundant, the temptation to water is not so urgent. Samples of milk bought on the street from the passing milk-wagons in that city, I have now and then tested and found to be pure. The bakers' bread of New Haven I have looked after somewhat and have found no alum. The bread of that city is in fact of better quality than it was from five to twenty years ago. The vinegar retailed in the corner stores I have sometimes tested, and while some of it has been found too weak, some of it has been too strong, and in no case has it contained sulphuric acid or poisonous metals. As to package coffee, cheap pickles, mustard and spices, the stores of New Haven can easily furnish them containing the standard adulterations, and can also as easily supply most of these articles in a state of satisfactory purity.

The tests which have been made hitherto by competent analysts are perhaps not sufficiently numerous to establish the general purity of our food supplies, and certainly what is true of New Haven does not necessarily apply to other cities South and West. The prevalence of the newspaper and the exertions of our Boards of Health are having a happy effect, while the abundance of food and the comparative absence, except in our largest cities, of a "poor class," largely cut off the inducements to make a business of adulteration.

But the inducements are not wholly wanting; the fact of adulterations exists among us, and whenever the falsification of any article can be carried on with much profit and little risk, that moment the adulteration will most probably begin. As our population increases in density, as the competitions of trade, and the

struggles for existence become sharper and fiercer, the mischief will increase and can only be averted or restrained by the strong arm of the law, backed by popular intelligence.

It is evidently the duty of our State and municipal authorities to ordain and enforce such wise laws as shall confine food-adulterators to the very narrowest limits. A comprehensive statute ought to be enacted applying to all adulterations and falsifications. It should define in plain terms what constitutes genuine legal milk, bread, mustard and so forth. It should provide for the employment of competent public analysts trained in chemical analysis and microscopy, to examine and test any article that may be submitted. Such tests ought to be made for any person bringing samples under suitable regulations at a very moderate charge, and it should be provided that any article on sale of suspicious or doubtful character be liable at any time to be analyzed at public expense, so that the poor who can rarely sustain the cost of such tests may nevertheless enjoy their protection. The attempt to legislate bills of such a character would doubtless develop an amount of lobby opposition that would fully demonstrate the need for their enactment.

There can be little doubt that one public food-testing laboratory in each of the New England States, coöperating with the State Boards of Health, would now annually save the citizens many times the cost of its maintenance, just as the agricultural experiment station of Connecticut is believed to save the farmers of that State a hundred-fold its cost by the analysis and valuation of commercial fertilizers alone.

While adulterations that are positively injurious to health are perhaps rare among us, there is not improbably a vast aggregate leakage of honest people's money, which might be checked by making known what we are all ignorant of, namely, the real quantities and qualities of nutriment in the supplies we purchase or produce.

The British "Sale of Food and Drugs Act" as amended in 1875, provides for the appointment of public analysts in the various cities, counties, districts and boroughs, and for the inspection and testing of food, by and under direction of suitable officers and at the public cost, as well as for making tests for individuals at a small charge. The Society of Public Analysts of Great Britain now forms a large and respectable body of experts, which publishes a journal of its experience in tracing and exposing adulterations,

and exercises a highly beneficial influence on the health, comfort and conscience of the British people.

The farmers of Connecticut suffered themselves to be humbugged and swindled by adulterated or worthless fertilizers for many years before they got sufficiently informed, and sufficiently warmed to declare that they must and would have a station for the analysis of fertilizers. How long shall we all rest under the greater evil, actual or imminent, of food adulteration before we shall provide ourselves the cheaply furnished means of keeping its devastations within the narrowest bounds?

DEBATE ON ADULTERATION.

In the debate which followed Prof. Johnson's Paper, Mr. GEORGE T. ANGELL, of Boston, opened, and he was followed by Prof. W. R. NICHOLS, of Boston, Prof. REMSEN, of Baltimore, Dr. E. M. HUNT, of New Jersey, C. F. WINGATE, of New York, F. B. SANBORN, of Concord, and several others; but only the remarks that follow have been preserved:

MR. ANGELL'S REMARKS.

Mr. GEORGE T. ANGELL, of Boston, opened the debate by saying that the investigation and exposure of adulterations and the sale of poisonous articles, was not a very popular, profitable or pleasant business. Many of his friends had urged him not to continue it, and he would gladly give a thousand dollars to be released from it if he could conscientiously retire. But at present he deemed it his duty to go on. He had prepared a new paper on the subject to which he had given a considerable part of the summer, and the reading of which would occupy an hour and a quarter; therefore it could not be read this evening. The German Government in 1878, caused 231,478 samples of different articles to be analyzed, and obtained 3,352 convictions in the courts. He wanted the same number of samples analyzed in this country, and the same number of convictions. In Great Britain, during 1879, about eighty public analysts, appointed under Act of Parliament, analyzed 16,772 samples, and detected and exposed 2,978 adulterations.

Mr. Angell then read the following letters, which he had received from Professor MARINER and others:

No. 81 CLARK STREET, CHICAGO, Oct. 18, 1879.

George T. Angell, Esq. — Dear Sir: In answer to your

questions, I would say that I have been an analytical chemist to this city twenty-three years; am a graduate of the Lawrence scientific school, chemical department of Harvard University, and was during two years assistant of Professor Horsford in the laboratory. I have devoted myself entirely to chemical analysis and teaching chemical students ever since. I think I have had much the largest chemical practice of any man in the West. At the request of a highly respectable citizen of Chicago, I have examined fourteen brands of sugar, bought as I understood, in this city; some granulated, some white, some colored, some coarse and some fine. I tested them thoroughly for impurities. In twelve of the samples I found tin in the form of a chloride, an active poison. The other constituents I can furnish if you desire. I have examined several syrups made essentially and entirely of glucose, and found in them chlorides of tin, calcium, iron and magnesia, and in quantities which made them very poisonous. In one case a whole neighborhood was poisoned, and I was told of one death. I have in several cases found sugar of lead in vinegar. I use no vinegar myself. I look with suspicion upon our vinegar. I use fruit acid in place of it,—lemon-juice, etc. I never eat pickles. I have found in various cases they were poisoned with lead and copper. I have tested to some extent the cheap tin ware sold in our markets, and have no hesitation in saying that there is great danger in using fruits, vegetables, meats or fish put up in tin cans of any kind. They are liable to contain lead and tin, both active poisons. Terra alba is largely used in cream of tartar, confectionery, and pretty universally for adulteration. I have found in many baking powders alum instead of cream of tartar, — a thing dangerous and injurious in all cases. I should say that I have come to expect adulteration, and to fear dangerous adulteration, in almost every article of the grocery kind. I have had large experience in the analysis of colored poisonous articles of clothing, being employed by one of the largest dry good firms in this city. I examined, I think, sixteen samples, and nearly all of them were poisonous. I have also analyzed for other parties. In one case a child nearly died from wearing colored stockings. I would like to add that I have analyzed numerous samples of cosmetics and powders used on the face and hair. Almost all the hair cosmetics, including most of those in common use, I have found to be very poisonous, and many of the face powders and preparations I have found to contain arsenic or lead. I should not be surprised if 20,000 people in Chicago today were injuring their health and endangering their lives by the use of these cosmetics and powders. You can hardly overestimate the present danger to public health from the large and growing sale of poisonous and dangerously adulterated articles in our markets. I would say that I have personally known Dr. R. U. Piper, of this city, more

than twenty years. He has no equal in the West as a miscroscopist, and has had wide experience as a chemist and physician. I should say most decidedly that there is no scientific man in Chicago whose evidence would be entitled to receive higher credit in our courts. Yours respectfully,

G. A. MARINER,
Analytical Chemist.

FROM DR. PIPER.

CHICAGO, Oct. 16, 1879.

Dear Sir, — I have no hesitation in saying to you :—

First—That I have entirely abandoned the use of vinegar generally sold in our markets, believing it to be unfit for use and dangerous. I know that sulphuric acid is largely used in its manufacture.

Second—I never use the pickles generally sold in our markets. I think the yellow pickles are quite as dangerous as the green. I know that lead is largely used in their manufacture. Verdigris is used in making the green.

Third—I have examined a large number of specimens of oleomargarine, and have found in them organic substances in the form of muscular and connective tissue; various fungi; and living organisms which have resisted the action of boiling acetic acid; also eggs resembling those of the tapeworm. I have them preserved to be shown to any one who desires to see them. The French patent under which oleomargarine is made requires the use of the stomachs of pigs or sheep. This is probably the way the eggs get in. I have specimens of lean meat taken from oleomargarine. There can be no question that immense amounts of oleomargarine are sold and used as pure butter. I regard it as a dangerous article, and would on no account permit its use in my family.

Fourth—Enormous amounts of the meats of diseased animals are sold in Chicago. I have made a large number of examinations.

Fifth—I have been informed of several cases of poisoning in this city from the use of canned meats.

Sixth—I know that Professor G. A. Mariner, of this city, a chemist of twenty years' standing, of as high reputation as any man in the West, and a personal friend of mine, has found chloride of tin, an active poison, in numerous samples of sugar he has examined, also in some of them chloride of calcium, another poison.

I do not dare to use the syrups commonly sold in our markets, and I use but little sugar, as I believe them nearly all adulterated.

In regard to glucose, I am informed and believe that seven-eighths of all the sugar sold in Chicago is made of or adulterated with glucose.

As now manufactured and used, I know that many of our eminent physicians believe it dangerous and productive of disease of the kidneys. The manufacture of glucose in this country is now enormous, and large factories are being built to increase its manufacture.

I could fill a volume with the adulterations which I have found within a few years past in articles of food and drink in common use, by microscopical and chemical analysis. I have made more than a thousand microscopical examinations of milk in this city. I think that not over ten per cent. of the milk sold here by dealers is wholesome and unadulterated.

At your request, I would say that I am a physician of over twenty years' practice, and the past ten years I have given almost entirely to chemical and microscopical analysis. I have written several volumes on scientific subjects,—surgical, medical, etc., and am well known to Drs. Storer, Holmes, Henry J. Bigelow, Cutter, J. B. Treadwell, Harriman and others of your city.

Yours truly, R. U. PIPER.

FROM J. M. CHAPMAN.

CHICAGO, Oct. 17, 1879.

Dear Sir,—I have been in the sugar business about twenty years. Fifteen years ago our markets were filled with excellent sugars. Among the brands then sold, as I remember them, were Stewart's, Miller's, Bradish, Johnson & Son's, and Oekershausen's, of New York; Lovering, of Philadelphia; Woods, Weeks & Co., of Baltimore; East Boston, Union, Salem T. Lamb and Adams, refineries, of Boston; J. B. Brown & Sons, of Portland, and many others, all of which were excellent sugars. Every one of these sugars has been driven out of our markets. For the past two years, with three or four exceptions, there have been, I believe, no pure sugars sold in Chicago. The average sale of sugars now in this market is more than a thousand barrels a day. In my opinion, not more than one barrel in a hundred is pure sugar, the rest being what we call doctored goods. J. M. CHAPMAN.

FROM DR. DE WOLF.

CHICAGO, Oct. 21, 1879.

Dear Sir,—Nothing is more clear to my mind than the immediate and pressing need not only of National and State legislation, but also of protective health associations to prevent the enormous sales in our markets of foods and other articles dangerous to public health. While I fully appreciate the necessity of additional laws, I must add that it is, in my judgment, absolutely impossible for public officers in this country to contend successfully with great financial interests, unless sustained by active organizations of good and patriotic citizens.

OSCAR C. DEWOLF,
Commissioner of Health of Chicago.

FROM PROFESSOR WHEELER.

CHICAGO, Dec. 15, 1879.

From personal knowledge I can say there is an enormous amount of dangerously adulterated foods and drinks, and other dangerous articles now sold in our markets, and, I think, this subject should receive the immediate attention of both the General Government and State Legislatures, and that Boards of Health and good citizens should at once take effective measures to stop this great and growing evil.

C. GILBERT WHEELER,
Prof. of Chemistry in the University of Chicago, and President of Chicago College of Pharmacy.

Mr. Angell said that in view of the importance of the testimony of the three first-named gentlemen, he would also read the following letters:

CHICAGO, Oct. 18, 1879.

George T. Angell, Esq.: Dear Sir,—We take pleasure in certifying that the scientific standing and reputation of Dr. R. U. Piper of this city are well known to us, and that the testimony of no other scientific gentleman of this city would, in our judgment, be entitled to higher respect.

HENRY BOOTH,
Ex-Judge of Cook County Circuit Court, and Dean of Union College of Law.

SAMUEL M. MOORE,
Chief Justice of the Superior Court, Cook County.
JOSEPH E. GARY,
Judge of the Superior Court.
CHARLES H. WOOD,
Ex-Judge of the 20th Circuit, Illinois.

CHICAGO, Oct. 21, 1879.

Dear Sir,—I have known Prof. Geo. A. Mariner, of this city, analytical chemist, for many years. His reputation is of the highest character, and I know of no man in the West of higher standing as a chemist. Very truly yours,

JOHN G. SHORTALL.
President of the Illinois Humane Society.

CHICAGO, Oct. 21, 1879.

I have known Mr. J. M. Chapman nearly twenty years. I consider him one of the squarest men I know.

S. A. KEAN [*Banker*].

I have known Mr. Chapman at least five years, consider him an upright man in every particular, and will add that, of my own knowledge, I am convinced that very little of any sugar sold in our markets is pure.

J. H. CLOUGH [*Merchant*].

CHICAGO, Oct. 21, 1879.

Having known J. M. Chapman twelve years, I will say he has, from time to time, presented me samples of poisonous substances in sugars that astonished me, as an old sugar merchant. I believe the public cannot too soon awake to a true knowledge of the dreadful facts in this matter.

J. H. DUNHAM [*Sugar Merchant*].

Mr. Angell devoted the remainder of the time allotted him to a consideration of "oleomargarine;" giving, first, the enormous amounts of butter and cheese now manufactured from it; and then stating that it was sold in almost every butter stall in the Boston markets, and could not easily be distinguished in looks or taste from true butter. In regard to the danger of using it, he referred to the fact that the French Academy of Medicine had reported French oleomargarine unfit for use in French hospitals; and that the French Minister of the Interior had refused to permit its use there. The ground taken was that, while it was possible to make in a chemist's laboratory, from the best materials, a wholesome article, the oleomargarine of commerce was an inferior article, and liable to be dangerous. Mr. Michels, of New York City, a well known microscopist, and editor of a scientific journal, testifies that it is simply *uncooked raw fat, never subjected to sufficient heat to kill the parasites liable to be found in it;* that those who eat it run the risk of trichinæ; that he has found in it tissue, muscle, and cells of suspicious nature; that all the caul fat of oxen brought to New York City in a week would not supply one factory four days, yet there were then seven factories in that city; that there can be no doubt that fats and grease of various descriptions are used, and he had reason to believe the refuse fat of one pork packing establishment was then used, and, probably, fats of every description, even those from carcases of diseased animals, would be used. Mr. Angell further said, that the eminent English chemist, Prof. Church, states he has found in it horse fat, fat from bones, and fats ordinarily used for candles. But the gentleman who had written most on the subject was Dr. Piper, before referred to, and concerning whom the Chief Justice of the Illinois Superior Court, and three other judges certify as before appears. Dr. Piper testifies that he has found in oleomargarine not only organic substances, in the form of muscular and connective tissue and various fungi, but also *living organisms which have resisted boiling acetic*

acids, and eggs resembling those of the tape worm. He has preserved them to show, and has also microscopic photographs of them. Rev. E. Huber, microscopist, of Richmond, Va., writes in the "Southern Clinic," that the fats in oleomargarine are not subjected to heat sufficient to destroy the germs of septic and putrefactive organisms, and that he also has frequently found in it eggs resembling those of the tape worm.

Mr. Angell said if the time allowed him were longer he should wish to take up, also, poisonous tin cans and other tin ware, poisonous sugars and syrups, poisonous clothing, papers and wall papers, poisonous confectionery, pickles and vinegar, and the great family of dangerously adulterated groceries. As there was not time to put in evidence on these points he would make the following proposition:

WHEREAS, some chemists and writers have asserted that there is now a large sale, in American markets, of poisonous and dangerously adulterated foods, and other poisonous and dangerously adulterated articles; and whereas, other chemists and writers deny these assertions; and whereas, *public health*, *public morals* and large amounts of capital are interested in the right solution of this question; and whereas, it is essential to its right solution that both sides be fairly heard; therefore I make the following proposition to the American Social Science Association, viz: I will put into the hands of its Treasurer or General Secretary either $50 or $100 (whichever sum may be required), provided any chemist or other person in the United States will do the same; said sums to be expended as follows: Such chemist or other person shall prepare, or cause to be prepared, an essay showing there is *little danger to public health* from the above cause, and *giving proofs*. I will then prepare, or cause to be prepared, an essay of similar length, showing there is *great danger to public health* from said cause, and *giving proofs*. The two shall be published *by the Association in one pamphlet* and sent to all leading newspapers of the country for such use as they shall deem judicious.

Professors NICHOLS and REMSEN; Dr. HUNT, of New Jersey; Mr. C. F. WINGATE, of New York, and others having spoken in the debate, and the large audience still manifesting great interest in the subject, Mr. Angell was permitted to occupy a few minutes, at the close of the debate, in which he again said it had been asserted that some of his statements on this subject, in a paper read before this Association last year, were not true. To settle that question he would propose either the President, General Secretary, or Treasurer of the Association, as referee, or any other person

who could be agreed upon, and at the time and place named by the referee he would meet all comers, and if they could prove *one* statement of his in that paper untrue he would pay the whole costs of reference. He then put in the following evidence in regard to glucose and sugars, prefacing it by remarks of his own:

Glucose is a cheap substitute for sugar. It is made in Germany, from rags. It can be made from sawdust. It is generally made in this country by boiling corn starch in dilute sulphuric acid (oil of vitriol). It has grown in a few years from nothing to most colossal proportions. A single factory uses in making it over five million bushels of corn a year; another two millions. I am told that it sometimes sells in large quantities as low as two cents a pound.

Dr. T. D. Williams, of Chicago, recently analyzed over a hundred samples of confectionery, there, and found more than seventy per cent. were made wholly or in part of glucose. He also recently analyzed six samples of *brown* sugar procured from six different sources, and found they *all* contained glucose. Two of them very light colored, dry and apparently fine articles, contained 33⅓ and 41⅔ per cent. of glucose.

Dr. O. W. Wight, Health Commissioner of Milwaukee, wrote November 8, 1879, that a chemist in charge of a glucose factory tells him that about *twenty* per cent. of glucose is put into *granulated* sugars; *sixty* to *seventy* per cent. into some *brown* sugars; and about *forty* per cent. into *candies;* that it is largely put into honeys, and constitutes the greater portion of many syrups.

Dr. Kedzie, president of the Michigan State Board of Health, some time since analyzed seventeen table syrups, and found fifteen of them made of glucose. In twenty samples of table syrups recently analyzed at Chicago, only one was found unadulterated, and several of them were made almost entirely of glucose. In twenty-one samples recently analyzed by Dr. Kedzie, twenty were made wholly or very largely of glucose.

The editor of the *Chicago Grocer* writes me that *seven-eighths of all the sugar sold in Chicago are adulterated with glucose*, and subsequently states in his paper that seven-eighths of all the syrups sold in that market are of the same kind. I am told by a Chicago sugar dealer that ship-loads of it are sent to New Orleans to come back as New Orleans sugar and molasses. It is largely used not only by confectioners, but also by bakers and brewers, in jellies, jams, preserves, honey, maple sugar, beers, wines, liquors, and is constantly being put into new uses, and I am informed that it is sold in immense quantities to sugar refiners.

Recently a Glasgow grocer was fined for selling *American* honey which contained fifty-seven per cent. of glucose. What is the character of this article? *Not as it may possibly be made in a*

chemist's laboratory at high cost, but as it is made and sold for two or three cents a pound in our markets. The *Chicago Grocer* of September 25, 1879, says: "The manufacturers deny admittance to their factories," The *Chicago Tribune* says: "The manufacture is carried on with as much secrecy as the illicit distillation of spirits."

Professor Charles R. Fletcher, chemical lecturer to Boston University, writes that he has recently analyzed three samples of best solid glucose and two samples of the syrup, grades A and B, and *in every sample* found free sulphuric acid (oil of vitriol). In one sample of *best* glucose he found *thirty grains* of oil of vitriol to the pound of glucose. In a sample of the best syrup he found nearly as much.

Dr. Kedzie (before quoted) found in one sample of glucose syrup 141 grains of oil of vitriol and 724 grains of lime to the gallon; and in another, which had caused serious sickness in a whole family, 72 grains of oil of vitriol, 28 grains of copperas, and 363 grains of lime to the gallon. Dr. T. D. Williams, of Chicago, states that in the various samples of glucose sugars and syrups he has found *in every sample* quantities of free sulphuric acid (oil of vitriol). Dr. Williams also states in a letter of April 9, 1880, that he has found glucose products *almost invariably* contaminated with lead, and that Professor Mariner, of Chicago, tells him that *he* has recently found lead in almost every sample he has analyzed. Professor Mariner testified last October that he had examined several glucose syrups, and found in them chlorides of tin, calcium, iron and magnesia in quantities which made them very poisonous.

Dr. Wight, of Milwaukee, Commissioner of Public Health, wrote November 8, 1879, that an eminent chemist and college professor tells him he has analyzed many specimens of sugar for muriate of tin, and has frequently found it in dangerous quantities. Professor Mariner, before quoted, testified last fall that out of fourteen samples of sugar analyzed by him, he had found in twelve of them tin in the form of chloride, an active poison. The students in the school of mines of Columbia College, New York city, extracted some time since quantities of tin from sugars, and hung the lumps to the necks of the bottles from which they were taken.

President Kedzie, at a meeting of the Michigan board of health, January 14, 1879, said that as a general thing cheap sugars in Michigan were adulterated, that poisonous materials were used to color sugars, and that (A) coffee sugars often and (B) and (C) coffee sugars almost always contained tin salts. The *Journal of Materia Medica* says "the use of tin in glucose syrups has been proved by numerous analyses."

In the valuable recently published book styled "Food Adulteration," I find a case in which the men employed in twelve different Michigan lumber camps were poisoned by eating glucose

syrup. Mr. Stearns, the great manufacturing chemist of Detroit, told me last September that he could not buy a pound of sugar in Detroit which he could use to coat his pills. Dr. Kedzie says that hams cured with glucose have been found to mould, blacken by heat and become bitter.

Mr. ANGELL closed by reading two letters which he had just received. One was from a gentleman in New York city, who refused to let a building and machinery for making glucose, because the large quantities of sulphuric acid used were so destructive to both building and machinery. In this letter, the writer (who, Mr. Angell said, was well known to him as a lawyer of high respectability) states that the man wishing to hire, admitted that immense quantities of sulphuric acid were used; that quantities of this *did* remain in the product, and large quantities of sulphate of lime which was, as he understood it, injurious to health, and affected the kidneys, and that he would only use on his own table the highest grades of granulated sugar. The other letter was from a Saratoga gentleman, who had a few days before bought a barrel of the highest priced granulated sugar, manufactured either in New York city or Brooklyn, which he found to be mixed and adulterated with a dull white substance, and which had only about one-half the sweetening power of pure sugar.

COMMUNICATION FROM THE MICHIGAN STATE BOARD OF HEALTH.

The following communication bearing on the question, and written by a member of the State Board of Health, of Michigan, Mr. LEROY PARKER, was read near the opening of the debate:

THE ENFORCEMENT OF LAWS AGAINST THE ADULTERATION OF FOOD.

It is too often the mistake of those who seek to reform an evil by means of legislative enactments, that they consider the good work accomplished when their reformatory measure has passed through the various stages of a bill, and has become an act of the legislature. One has but to look through the statute books of the various States and of the nation, and see the great number of dead letter laws which fill their pages, to be made aware of the fallacy of such a theory. The number of laws which have for their object the improvement of the condition of the public in some respect, but to which no attention is ever paid, either by the public for whose benefit they were enacted, or by the law officers whose duty it is to enforce them, will be found surprisingly large by those who will take the trouble to investigate the subject. In view of this fact, we must conclude either that the public do not care

enough for the benefits to be derived from such laws, to insist upon their enforcement; or else that the officers of the law, who are empowered to carry out their provisions, are negligent of their duty. It is more than probable that the fault lies on both sides, and that the indifference of the public is the excuse for the negligence of the officials.

Statutory enactments for the prevention of adulterations of food and drink are common in many of the States, and have been so for some years; but, with the exception of an occasional inspection of those articles of common, daily consumption, such as milk, bread, and meat, and that only in the larger cities, little or no attention is paid to the discovery of the adulteration of articles of food, or the punishment of those who profit by such adulterations. It is primarily essential to the safety of the public that there should not only be laws against the adulteration of food, but that these laws should be faithfully enforced. The real work of securing the public against imposition and injury from adulterations, begins after the enactment of the necessary laws. Two things are essential to the perfect enforcement of such laws:

(1.) That the public should be fully awakened to the extent of the evil from which they suffer, and should be made aware of the pecuniary loss, and danger to health which food adulterations impose.

(2.) That the officers charged with the execution of such laws, should have the encouragement and support of the public.

To secure the first pre-requisite, it is necessary that the Social Science Association, the National and State Boards of Health, and Public Health Associations, should carry forward the work of investigation and discussion, which has been so happily begun. Much has already been accomplished in this respect. The National Board of Health Bulletin (Supplement No. 6), contains an exceedingly comprehensive and exhaustive report, by C. Lewis Diehl, upon deteriorations, adulterations and substitutions of drugs; also, an admirable Paper by Dr. R. C. Kedzie, President of the Michigan State Board of Health, upon the adulteration and deterioration of food.

In every possible way, the most ample and exact information as to the manner in which foods are adulterated, the kinds of food usually tampered with, and the evil effects arising therefrom should be communicated to the people by means of such reports as these mentioned. The results of investigations and experiments should be published and distributed as generally as possible. If the public generally understand the nature and extent of the fraud which is practiced upon them, by the introduction of harmful and inferior substances into articles of food, they would be very likely to raise a vigorous protest against it, and avail themselves of the means provided by law, for preventing the evil and punishing the perpetrator. It is, undoubtedly, true that the majority

of people have little or no idea that many articles of daily consumption as food are more or less adulterated,—their attention never having been especially called to the subject. The aim of those who use adulterations in the manufacture of such articles is, to artfully conceal their dishonest work; and it requires, in most instances, the best expert skill to detect the foreign or deleterious substances in food. It is little wonder then, that persons who purchase and use such articles, in ignorance of their dangerous and fraudulent character, should make no complaint of the injury done them, and should appear to submit tamely to such impositions. But give the people the facts in regard to the food they eat; iterate and reiterate these facts, and show them in what way they are themselves injured, and they will soon insist that their grocers and provision dealers shall supply them with pure articles of food, or suffer the penalty of their wrong doing.

No law can ever be efficiently enforced which has not a public sentiment back of it to sustain it. A public which is indifferent, through ignorance of an evil, will not insist upon its suppression by the officers of the law, whose duty it is; and oftentimes it will be found that the efforts of inspectors and other officers, to carry out the law against the adulteration of food, are paralyzed by the indifference or opposition of the very class for whose benefit the law was enacted. The injury to persons from the use of adulterated food is oftentimes so slight, and the pecuniary loss so small that they find it easier and cheaper to submit to the evil than to make complaint. So that it is not safe to expect that active steps for the enforcement of the law will always be taken by the injured public. The officers charged with the duty of discovering and punishing infraction of the laws against food adulterations, should have the fullest support and encouragement from the public to make complaint against manufacturers and venders of such food, and should be well and sufficiently paid for their services.

No law of human devising will enforce itself. Public intelligence must recognize its necessity, and public sentiment must insist upon its enforcement.

Prof. W. Ripley Nichols, of Boston, said there was no doubt that articles of food, like other commercial articles, were adulterated to a greater or less extent. He believed that all such adulterations should be forbidden by law, and that articles like glucose and oleomargarine should be sold under their own names. He deprecated, however, the circulation of such exaggerated, erroneous, and, in some cases, altogether unfounded reports as have recently been brought before the public. Perfectly good and wholesome articles of food, like glucose and oleomargarine, substances which ought to be considered valuable additions to the food-supply of the

poor, are branded as poisons, and an utterly unwarranted prejudice is created against them. He believed that the adulterations now practised are of a fraudulent and not of a dangerous character, and that, with the exception of a few things which are almost universally adulterated, there is no difficulty in obtaining in a state of practical purity all the necessary articles of food and drink by paying a fair price for the same, at least in this part of the country.

Dr. HUNT, of New Jersey, said there were many adulterations, all fraudulent and some hurtful in his State, particularly in the vicinity of New York city.

Mr. SANBORN called attention to the fact that all adulterations were forgeries, and thought they should be dealt with as commercial forgeries are—not overlooked and considered as necessary evils from which the poor must always suffer.

Dr. LINCOLN exhibited some samples of glucose, sent to him from Chicago, and spoke briefly.

Mr. WINGATE and Prof. REMSEN spoke to the same general effect as Prof. NICHOLS, but no adequate report or synopsis of their remarks has been received.

GENERAL PAPERS.

I. CHRISTIANITY AND THE RELATIONS OF NATIONS.

BY CHARLES L. BRACE.

(Read September 8th, 1880.)

To the student of human progress there is one field in which the great moral forces of history appear to have had little effect, and where Christianity itself at first sight seems a failure, — we mean the public relations between nations. War still remains the most fearful curse upon mankind: it still desolates thousands of homes, making innumerable orphans and widows, destroying in a day the results of long and patient labor, and laying in taxation and the support of armies, immense burdens upon the laboring classes. Nations are in the same relations to one another in regard to questions of right or property, in which the barons of the XIV. century were to each other. As then a dispute upon the title to real estate throughout Europe was settled by duel, and as private gentlemen and individual cities in any difference with their neighbors resorted at once to "Private War," declared under due formalities, so now between peoples, disputes in regard to territory or on questions of right and honor are supposed to have but one court of decision, — the arbitrament of armies. Leaving out of view the wars where great principles are involved, like the war for the independence of Hungary, the Franco-Austrian struggle for the freedom of Italy, our own civil war and others, there are still numerous either useless or unjust contests, such as those of the United States with the Indian tribes, of Great Britain with inferior races like the Chinese, Zulus and Afghans, and of France and Germany for supremacy, sufficient to show that Christianity has barely touched international relations among the most highly civilized communities. The losses of the Franco-German war were terrific in human life, and the cost, especially to the laboring classes of both countries, was immense. It is estimated by De Card that recent wars alone in Europe have cost the people fifty milliards (50,000,000,000) of francs! Every country of Continental Europe is eaten up by the taxation necessary on account of the hostile position of peoples who have substantially the same interests.

To the Christian Church, International Law — or the customs and rules of conduct between nations — owes little; but to the moral and religious principles with which Christianity has been slowly impregnating mankind, it has a deep obligation, and will be more and more indebted.

It must be remembered that International Law, as a body, is a creation of the times since Christianity was a living force in public affairs. It is true that many of its rules and principles are derived from the Roman Law, but the modern spirit, which has especially characterized it since Grotius, is essentially influenced by the new faith. This eminent publicist, early in the XVII. century, thus states the motives which prompted him to his great work: "For I saw, prevailing throughout the Christian world, a license in making war, of which even barbarous nations would have been ashamed; recourse being had to arms for slight reason or no reason; and when arms were once taken up, all reverence for divine and human law was thrown away, just as if men were thenceforth authorized to commit crimes without restraint."

His views in regard to limiting the evils of war, and upon war itself, in regard to the treatment of prisoners, good faith to enemies, privateering, humanity to women, the wounded and non-combatants, and finally as to arbitration, are not only far in advance of the XVII. century, but even of this century, and bear the unmistakable impress of Christian teachings.

These opinions of Grotius would deserve quotation in full, did time permit, both because they have affected the relations of nations more than the writings of any publicist before or since his time, and because they are so distinctly the fruits of Christian forces in the world.

Progress in International Law we shall now proceed to test by the humane changes both in practice, custom and law, shown in the public settlements, codes, treaties and practices of nations of the XIX. century, and in the views of eminent publicists. The high-water mark in this century of humane practice and theory in public law is probably best shown in two documents, — the Code of Instructions, issued by the Government of the United States during the great Civil War to their officers and soldiers, compiled by Prof. Lieber, and the proposed Code for a Law of Nations, compiled by Prof. Bluntschli, who has himself borne so distinguished a part in the practical application of these Christian and humane

principles in the arbitration settlement of Geneva between Great Britain and the United States. From these two sources, we shall gather many of our evidences of what the Christian system has already accomplished in public law and custom, and what it proposes to accomplish in the future.

PRIVATEERING.

Apart from these, we will first examine, however, the changes made in "Private War" on the seas, or Privateering. Under the combined influences of the religious spirit and the mercantile habits, Private War on land, especially in Germany, was put an end to, and Courts of Arbitration (*Austraege*) in the XV. century decided between the incessant contests and disputes of separate cities, counties and provinces, until, at length, Law took the place of Force. Private War, or piracy, however, still lingered on the sea, and individual merchants and different seaports were obliged to associate together to defend themselves from incessant robbery and plundering by corsairs.

The first great check to this appeared in the end of the XIV. century, in the issuing of letters of marque or reprizal by various princes, authorizing certain individuals to plunder on the high seas in time of peace. Privateering was thus at first in the interest of public order. The first law in the history of France authorizing privateering appeared in 1400, and distinctly characterized it as a means of preventing private War, when individuals took vengeance in their own hands.

In the same century similar authorizations were issued by the Low Countries, England and various powers.

An English Act of Parliament (1414) required privateers to bring their prizes to an English port, and to make declaration of capture to the justices of the peace, under penalty of confiscation of the prize and the captor.

During the XV. and XVI. centuries, privateering was often well regulated, and, owing to the comparative unimportance of commerce then, did not attain to so great and injurious a development as in the succeeding centuries. During the XVII. and XVIII. centuries, the commerce of both neutral and belligerent powers suffered immensely from this species of robbery. The Christian spirit (as the words of Grotius show) was always opposed to it. Isolated efforts were made to abolish it. Thus, in 1675, Holland and

Sweden made a treaty, agreeing not to issue letters of marque, but this does not appear to have been a permanent agreement. In her wars with Turkey between 1767–74, Russia did not employ privateers. In the XVIII. century, privateering had become an organized piracy, and almost every treaty attempted, but in vain, to restrain it. In that century an American, who though often called an unbeliever, was filled with the truest spirit of Christianity, has the credit of bringing about one of the first important treaties which abolished it. "It is for the interest of humanity in general," says Franklin, in a public despatch to the British Commissioner in 1783, "that the occasions of war and the inducements to it should be diminished. If rapine is abolished, one of the encouragements of war is taken away, and peace therefore more likely to continue and be lasting. The practice of robbing merchants on the high seas, a remnant of the ancient piracy, though it may be accidentally beneficial to public persons, is far from being profitable to all engaged in it, or to the nation that authorizes it." And again: "The United States, though better situated than any other nation to profit by privateering, are, so far as in them lies, endeavoring to abolish the practice by offering in all their treaties with other powers, an article engaging solemnly that in case of a future war, no privateer shall be commissioned on either side, and that merchant ships shall pursue their voyages, unmolested."

Through Franklin's influence, the treaty between Prussia and the United States, in 1785, contained the well-known clause in which each power gave up the right of commissioning privateers against the other, in case of war. This provision, however, was not revived in the renewal of the Treaty in 1799.

So well entrenched was this practice, that a distinguished French publicist, (Hautefeuille) even in this century ventured to say, "The opinion generally adopted on the utility of privateering against an enemy, and especially, the object not avowed but real, the ruin of neutral nations, will always prevent a certain nation from consenting to the abolition of a practice, upon which it founds its maritime greatness." This publicist might have lived to see "a certain nation" taking part in the Congress which abolished it. Still it is to be admitted that the general policy of Great Britain up to this century has been adverse to humane progress in maritime law, with reference to privateering, blockade, and the law of contraband. Her course has certainly tended to make war "*bellum*

omnium contra omnes" (a war of all against all) instead of limiting it, under the modern and humane view.

The great reform in International Law, as limiting the effects of war, dates from the Congress of Paris, 1856, when all the great Powers of Europe, together with Turkey, and later, forty other States agreed to the abolition of privateering, and to the rules which protected neutral commerce, and confined wars as far as practicable to belligerents. Unfortunately, for the fame of this country as a pioneer in human progress, it will be remembered that the United States refused to accept the rule abolishing privateering, unless there were accompanied with it a stipulation of the inviolability of private property on the sea, excepting only contraband of war. This last is a reform which, as was the case with the partial protection of private property on land, requires the slow action of Christianized opinion. Whether our Government were sincere in urging it at that time, is at least open to question. At this time, there can be no doubt that the American people are heartily in favor of it. The mercantile community of Continental Europe, especially in Germany, urged this reform in the years 1859 and 1860, with much enthusiasm. It was presented and voted on favorably in many legislatures. There is little doubt that a future year, not far distant, will see its general adoption. It rests on the Christian idea that war, as a terrible and barbarous Court of Arbitrament, should do no needless damage, but only what furthers the decision and determines the final issue.

The United States, during the war of the Rebellion, offered to accede to the Declaration of Paris, without the condition it had before demanded. The proposed separate conventions, however, on this subject fell through. No letters of marque were issued by this Government during the Civil War, though authorized by Congress.

The German and French Governments in the war of 1876, held to their agreement and employed no privateers. Prof. Bluntschli, in his proposed Code, declares (No. 670) it to be an article of modern International Law, that Privateering is abolished.

INVIOLABILITY OF PRIVATE PROPERTY.

The inviolability of private property on the sea was admitted in the treaty to which we have already referred—that of 1785 between Prussia and the United States; and was recognized in treaties of

the South American States, in 1851 and in 1856. In the wars of Great Britain and France with China, the right of maritime capture was suspended. In March, 1865, the Emperor of the French made public restoration of such private vessels, belonging to Mexican citizens, as had been condemned by prize courts and the proceeds of which had not been finally adjudicated upon. European Governments have often at the close of wars, restored captured ships and formed mixed commissions to ascertain the damages incurred. In 1861, a treaty was framed between France and Peru, which exempted all private property from capture. The same principle was admitted by Prussia, Italy and Austria in the war of 1866; in 1868, the Parliament of Germany passed a resolution, inviting the Chancellor to obtain the acknowledgment of the safety of private property on the sea during war; no public acknowledgment, however, was obtained. In the Franco-German war of 1870, King William, in his proclamation of 18th July, declares that French merchant ships can neither be brought in nor captured by the Federal marine. This advanced measure, however, was not responded to by the French Government, so that before the close of the war, the German military authorities believed themselves obliged to suspend this rule. The French Government of National Defence, however (Oct. 1870), expressed the hope that the progress of ideas would in this matter ultimately soften the evils of war.

In July, 1870, the Secretary of State of the United States gave utterance publicly to the expectation that the people of the United States would have the satisfaction soon of seeing the principle recognized universally of the abolition of maritime prizes.

The objections made to this reform even by so enlightened a publicist as Dana, seem of little weight. Modern wars are of so concentrated and terrible a character, that the damage done to individual property on the sea has little influence on the issue. It is merely a useless damage, which modern humanity condemns, even toward an enemy.

These two great reforms then—the abolition of privateering and the inviolability of private property on the sea—may be considered as almost won by the humane influences working in the world under Christianity. The principle which lies at the base of this and similar reforms, is one which will be more and more recognized by all those truly feeling the modern teachings of humanity: the

principle that war is between States and not individuals. War, like the "judicial duel" of the Middle Ages, is a process, terrible and barbarous indeed, whereby justice is sought between two contestants. The citizens of each State are only considered as enemies, when they take a personal part in the struggle, or discharge public duties. It is true that many eminent publicists, American and English, do not admit this principle. According to Sir J. Nicholl, "There could be no such thing as a war for arms, and a peace for commerce." Twiss, in his "Law of Nations," says with more antithesis than truth, "because private war is inconsistent with public peace, it follows that public war is equally inconsistent with private peace;" Vattel (book III, c. 5,) declares all the citizens of belligerent nations, enemies, even the women and children; and Kent states that all citizens of belligerents are in hostility with one another.

Modern practice, however, under the influence of "the enthusiasm of humanity" is more and more conforming itself to the more humane principle. Even as far back as the French Revolution, Portalis, Minister of the Republic, uttered these remarkable words at the opening of the Council of Prizes: "Between two or more belligerent nations, the individuals of which those nations are composed, are only enemies by accident; they are not so as men; they are not so even as citizens; they are so only as soldiers." In the war of 1870, King William of Germany proclaimed, "I make war against French soldiers not against French citizens," assuring the citizens of protection to their property, so long as they did not indulge in acts of hostility against the German troops.

THE NEW CODES.

The American Instructions and Prof. Bluntschli's Code, forbid putting human beings to death in war, without object or utility, or the wounding, torturing, maltreating or enslaving a prisoner, or violating or assailing women. Both demand the protection of the religion, the language, the intellectual culture and honor of the vanquished. When one recalls the bloody wars of the past, whereby one form of religion was to be forced on a people dissenting, the advance in modern international customs is made clear to the most doubting. Both of these humane codes forbid all carnage and destruction which does not tend to the reëstablishment of justice—the object of war. Even the killing of an armed enemy

uselessly is forbidden. Under the general principle of which we have spoken, the plundering of property in an enemy's country is absolutely forbidden by the more humane rules of modern International Law, excepting it be the fortune of the belligerent State itself, the arms and equipment of the conquered soldiers, and articles contraband of war. There is still also left in question the plundering of the property of citizens in a place taken by assault, and the right of maritime prizes; but both these barbarous privileges of war may be said to be passing away. All public buildings for scientific, æsthetic or philanthropic purposes are required to be respected in an enemy's country; and it is no longer according to international usage to carry off works of art from a conquered country, or to sell them to defray the expenses of the war. It is true that many of the reforms, spoken of above, have been only carried out in the practice of one or two nations, or are merely proposals of eminent publicists. Still the whole body of International Law is merely the expression of the moral ideas and principles of leading nations with regard to their relations, without any fixed authority but custom, and no basis but justice or the highest utility. The theories of eminent writers resting on the highest morality, and above all, the practice of any one nation, must influence profoundly all nations.

One of the terrible abuses of war is in "reprisals." Humanity and Religion have as yet scarcely influenced these. The American Instructions contain indeed on this subject excellent sentiments, and they were not violated by the United States during the Civil War. "Civilized nations," says Art. 27, "acknowledge in retaliations the sternest feature of war. A reckless enemy often leaves to his opponent no other means of securing himself against the repetition of barbarous outrage. Retaliation will therefore never be resorted to as a measure of mere revenge, but only as a means of protection and retribution, and moreover cautiously and unavoidably; that is to say, retaliation shall only be resorted to after careful enquiry into the real occurrence and the character of the misdeeds that may demand retribution. Unjust or inconsiderate retaliation removes the belligerents farther and farther from the mitigating rules of a regular war, and by rapid steps leads them to the internecine wars of savages." (Art. 28.)

Prof. Bluntschli is equally humane in his view of this terrible measure. The recent European Conventions have, however, been

able in no degree to mitigate the law of reprisals, and they remain the great cruelty of war.

THE WOUNDED.

Nothing disgraced the humanity of the past, like the neglect and cruelty practiced towards the wounded in war. Under modern law, the ambulances and military hospitals for the wounded are held to be neutral, and are respected and protected by the belligerents. In 1864, a convention was held at Geneva for the amelioration of the fate of the wounded during military campaigns; and this humane effort led to the series of international movements, one of the latest fruits of Christianity, designed to alleviate the evils of war. An agreement was signed and adopted by the Swiss Confederation, the United States of America, and nearly all the great Powers of Europe, having for its object to neutralize everything employed in the care of the wounded. This agreement was adopted by Austria after the war of 1866, and by Russia, in 1867. In a conference, held at Geneva, in 1868, of the principal European States, this humane agreement was extended to the care of the wounded on the sea. The duty of both belligerents, to provide, so far as is practicable, even for wounded enemies, is now a recognized feature of International Law, and may be considered as the first public effort in the history of mankind, to carry out one of the foundation rules of Christianity, "Love your enemies."

The care of the wounded in our own civil war, and the Franco-German war, by private associations of philanthropic persons, working in combination with the Governments, is one of the latest practical fruits of religion, and has relieved an untold amount of human misery.

The Convention of St. Petersburg, in 1868, entered into, on the proposal of Russia, bound the leading European powers to greater humanity. It limited the objects of war "to weaken the military forces of the enemy;" that, for this purpose, "it is sufficient to disable the greatest possible number of men; that this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable; that the employment of such arms would, therefore, be contrary to the laws of humanity." The great Powers accordingly renounced the employment of projectiles, explosive, or charged with inflammable substances, below a given weight.

The drift of all international policy in regard to neutral Powers, has been in the humane direction, and, therefore, in the channels which religion would suggest. War is as much as possible to be limited in its evils. As we have already said, the abolition of privateering will lessen to an immense extent the curses of war to those who are engaged in peaceful occupations. The customary notice now given to merchant vessels, allowing them several weeks to depart, after the declaration of war, is a reform in a similar direction. The Rules of Paris (1856) have settled the dispute of ages in favor of neutral Powers. A free ship carries a free cargo, and a free cargo cannot be seized on an enemy's ship. Blockade can no longer annoy a whole world of peaceful persons, any farther than it is a real blockade.

Even the British Government has been ready to acknowledge that the progress of civilization has brought about stricter obligation in regard to neutral supplies to belligerents,* and the duty of limiting war to the smallest extent possible.

ARBITRATION.

The highest result of the Christian spirit, as seen in public affairs in this century, is the disposition to settle difficulties and prevent war, by arbitration. As we have already remarked, the great step of Continental Europe from anarchy and war to the rule of law, was made in Germany in the XIV. and XV. centuries, by the settlement of "private war" through mutually appointed Courts of Arbitration (Austraege). This great reform was the beginning of modern civilization, or the era in which law and courts took the place of arms between individuals and opposing cities. It is by no means improbable that the arbitration of the XIX. century is also the beginning of a higher Christian civilization, when International Law and International Courts, shall take the place of war and force in the settlement of disputes between nations. As it may be supposed, settlement of public disputes by arbitration is not entirely a modern discovery. While the instincts of right and justice existed, there must always have been a possibility of such a settlement. Even as far back as the XVI. century, different kings of European States are found determining difficulties by this reasonable mode. In one instance (1546) the kings of France and England settled a dispute in regard to a large sum of money by a

* Despatch of Count Granville to the British Government, Sept. 15, 1870.

reference of the matter to four learned jurisconsults, probably the first instance of a practice to become common, of referring matters of International Law to private students of the science. Subjects more difficult to settle than differences about money, were referred in that century to arbiters. The kings of Spain and Switzerland decided a dispute in regard to the boundaries of Franche Comté by arbitration. Even the claims of a sovereign Power were referred to a foreign decision, as when the Arch Duke of Austria, and the Duke of Wurtemburg, each claiming a certain county (Montbeliard), laid the litigation before the Parliament of Grenoble.

It is to the credit of both Great Britain and the United States, that they resorted to arbitration in one of their first treaties. After the independence of the American colonies, difficulties arose between them and the mother country as to the Northeastern boundary of the Union. By the treaty of 1794, the dispute was to be finally decided by Commissioners chosen in the following manner: one by the king of Great Britain, another by the President of the United States, with the advice and consent of the senate, and the third — in case of disagreement between the two — to be chosen by the above Commissioners. Two other Commissioners were appointed to determine indemnities due the subjects of each Power, for damages. In this treaty is undoubtedly indicated that greatest practical exemplification in modern times of humane principles — the settlement by the Geneva Arbitration.

MEDIATION.

The famous Conference of Paris (1856), as we have said, originated or confirmed some of the important reforms of modern International Law. It discussed another subject of the deepest importance to the future of humanity — the prevention of war by the mediation and collective decision and arbitration of the great Powers of Europe. Article eighth required if there arose between the Sublime Porte and one or more of the signatory Powers, a disagreement which threatened their peaceful relations, that these Powers before resorting to force should apply to the other contracting Powers for their mediation.

The discussion on this humane and reasonable proposition, showed that the representatives of the great Powers of Europe were by no means peculiarly favorable to such proposals. The results of the last few years have proved that even this mild suggestion,

and the wishes expressed by the plenipotentiaries, that "all States among whom disagreements arose, would, before appealing to arms, have recourse to the good offices of a friendly Power," were far beyond the old barbaric habits of Europe, and produced little practical effect. Still, they indicate the ideal which has arisen before the thoughtful mind of the age, — the constitution by the great Powers of Europe of a kind of combined Court of Mediation and Arbitration, which should prevent war, and even enforce its decisions in the interest of general peace.

In only two cases has the mediation of the great European Powers since 1856, brought about peace; one in the case of Luxembourg between France and Prussia, in 1867 — a mediation on the part of England, which only delayed a few years the terrible war that afterwards broke out. The other in 1869, the case of Candia between Turkey and Greece — a settlement by the great Powers which was by no means in the permanent interest of either peace or justice.

No mediation was able to prevent the terrible conflict of 1870.

If we refer back to European history in this century, we shall find a number of instances wherein the reasonable settlement of differences between nations by arbitration has been successfully attempted.

During a war of France with the Moors, certain English merchant vessels were captured by the French on the coast of Portendik, it was claimed, without sufficient notice of the blockade. The claims of the English merchants injured were referred by the two cabinets to the king of Prussia, and on Nov. 9th, 1843, a decision was given, that a fine should be paid to the English merchants, injured by the French Government—a fine fixed afterwards at 4,770 francs by a mixed commission. A war was thus avoided and justice done, to the satisfaction of all parties.

The case of the *Armstrong*, wherein an American ship was destroyed in a neutral harbor (Fayal) by an English vessel of war, was a delicate one, involving a claim on a neutral Power for injuries sustained within its limits by a foreign Power. The claim for damages on Portugal by the United States was referred by both Powers for settlement to the President of the French Republic. The arbiter decided (Nov. 30, 1852) against the United States; the decision was quietly accepted and war averted.

In 1862, a case of arbitration occurred, where national pride

might easily have led to violent measures. The officers of a British ship, *La Forte*, insulted a Brazilian sentinel and were thrown into prison, but soon afterwards released on the demand of the British vice-consul. The English cabinet demanded reparation from the Brazilian authorities, and the dispute was referred to the king of the Belgians, as arbiter. He decided in favor of Brazil and the decision was accepted. A difference occurred in 1821, between Chili and the United States, which aroused much excitement, and nearly brought on a war between the two countries. The Chilian vice-admiral had violated the rule of International Law, which protects private property on land, especially that of a neutral; he ordered the seizure on the territory of Peru, of considerable sums of money, the fruit of the sale of merchandize brought in by an American merchantship, the brig *Macedonian*. The United States Government addressed a note to the Government of Chili, demanding the restitution of the moneys seized. The ministry of Chili refused to accede to the demand. Popular feeling in the United States was in favor of war to enforce the claim. The dispute, however, was at length submitted to arbitration, and that wise monarch, Leopold I., king of the Belgians, became again the arbi ter. His decision was not rendered till May, 1863, and was fully in favor of the United States. Great waste of property and loss of life were saved, and both parties remained in amicable relations. An arbitration between the Governments of Peru and Japan, in 1875, is interesting as one of the first instances in which a non-Christian Power accepted this method of settlement. The case was that of the *Maria Luz*, a Peruvian vessel, arrested in the port of Kanagawa by the Japanese authorities, and was decided by the arbiter, the Emperor of Russia, in favor of Japan.

It has chanced that a number of cases of dispute between this country and Great Britain, of comparatively minor importance, have been determined in the last few years by arbitration; among them, that of the *Creole* in 1853.

DISPUTES AS TO TERRITORY.

Disputes, however, in regard to claims on territory are thought to be of a more vital nature, and not so easily settled by umpires. The discussion in regard to rights of territory on Puget's Sound was one of this nature, and endangered the relations of the two countries during a considerable period. A treaty, however, was

signed on June 1st, 1863, whereby the question was referred to two arbiters, one being named by each Government, who had power to name a third, if they disagreed. They were not even obliged to choose the third, so fair and just were their views, and their decision, rendered September, 1867, was received by both parties without protest.

The similar dispute in regard to the Northwestern boundary with Great Britain, had seemed to this Government so unreasonable, that it had declined arbitration six times in regard to it. The case, however, was finally referred for arbitration to the Emperor of Germany, and was decided in favor of the United States, October, 1872; this decision closing a century-long dispute on boundaries.

A difference occurred also between Great Britain and Portugal, relative to the rights of each Government to the Island of Balama on the western coast of Africa. The matter was referred in 1869 to the President of the United States as arbiter; his decision was in favor of Portugal, and was received by England without opposition.

The great affair of the Alabama and of the injuries inflicted by the rebel cruisers, is too fresh to need recapitulation.

The Geneva Arbitration of 1872, to which it led, may be fairly held as one of the high-water marks in modern progress towards right reason in the settlement of international difficulties. It is true that its influence for the time is somewhat diminished by the disgraceful delays and disputes in regard to the distribution of the indemnity among claimants in the United States. Then the settlement since of the Fishery question with Great Britain by an arbitration which seemed to our people unfair and unjust to our interests, has for the time weakened the power of this method of settlement here, as did the results of the Geneva Arbitration in England. But these are only passing objections. The two leading commercial Powers of the world, in a time of great bitterness of popular feeling, and when one side felt itself deeply injured, under circumstances which in all past history would have been thought to justify war, have deliberately controlled passion, and submitted their differences to the most impartial earthly arbiters. This is one of the first prominent instances in history of the influence of Christianity on the relations of nations. It is for this reason of the highest importance in the moral history of the race.

The sketch we have given of different cases of arbitration is a

list of the "victories of peace." It is well completed by the most momentous of all—the Geneva settlement.

In some future and better age, when Christianity no longer touches the surface of society but has imbued whole races of men and affected the relations of Governments, it will not be battles which constitute history, or the record of fields of blood which make a nation's glory; but the historian will delight to chronicle these first gleams of a higher civilization, when reason was taking the place of passion, and law of force, and Christianity of hatred and revenge, in the relation of one nation to another.

UNIVERSAL PEACE.

The question is often put, whether Arbitration can ever become universal, or whether the principles of Christianity can ever imbue whole peoples as they have inspired individuals.

Mr. Herbert Spencer has drawn a prophetic picture of the future of mankind under the working of evolution upon the altruistic or benevolent tendencies of the race. From what is seen in a few favored individuals, we can judge, he argues, of the possibilities of mankind, while the laws of evolution must of necessity work out towards the final victory in the struggle for existence of altruistic tendencies.

Looking at what Christianity has done with a few individuals, we may also judge of the far future with mankind, and, from a few traces now in International Laws and customs, what it may accomplish, after ages of influence, upon nations and governments.

We have beheld it redeeming the lot of the prisoner of war, from one exposed to massacre, and slavery to that of the captive humanely treated under modern customs of war; we have seen it ministering to the wants of the wounded, and protecting all that belongs to their care even in the army of an enemy; we have found it prohibiting even the killing of an unarmed enemy, forbidding all useless destruction of life and property, all injury of women or defenceless persons, all objectless wasting of fields and fruits; we have seen it doing away with piracy and privateering, with the plunder of philanthropic and scientific buildings, with all private booty, and even urging the protection of private property on the sea.

What but the influence of the "Religion of Love," direct or indirect, has done so much to limit the evils of war, and to confine them to the belligerents?

It is true, war is still the gigantic evil of history—the one great travesty of the faith which leading nations profess. Yet the spirit of this faith has won its greatest triumph in finally introducing Arbitration between disputing nations.

There can hardly be a doubt that in the distant future Arbitration in some form will be the great method of settling international differences. For the coming few centuries, it will probably only be applicable to exceptional cases, when national pride and passion are not too much aroused. But the increasing power of the religious sentiment and of right reason among men, and it may be, the growing influence of the laboring classes, who suffer most from war, will force cabinets more and more to this mode of settlement.

If we look at the progress in the slow abolition of "Private War" in Europe, we shall conclude that in some form, the civilized world will go through a similar change and development and rise out of the comparative barbarism of the XIX. century, as Europe rose out of the barbarism of the XV. century. The probable course of development will be, first, in the great Powers of the world agreeing beforehand when a given treaty is framed, that any difference in relation to that particular treaty, shall be determined by Arbitration. The Postal treaties of the United States with foreign Powers contain a clause of this character. In 1853, the American Senate adopted a resolution designed to accomplish this humane purpose: to the effect that the President should insert in all future treaties an article binding the contracting parties to submit all differences between them to impartial arbiters. In December, 1873, a resolution even more extended, by Senator Sumner, was presented in the Senate, requiring the Government to recommend the adoption of Arbitration in its relations with other nations. The greater part of the European treaties of commerce and the international postal treaties contain provisions relating to Arbitration, in case of disagreement as to the treaties. As we shall show later, the Arbitration clause has been recommended to the attention of ministers by the votes of the Belgian, Dutch and Swedish Chambers, and everywhere tends to be inserted in all treaties. The habit of Arbitration will thus be introduced in international relations. And in all great legal reforms, habits have a prodigious power. At first, it could only be employed in comparatively unimportant disputes, but gradually it would come into play in more vital matters.

The next great step in the application of right reason to international affairs, will be the formation of International Codes or rules of law, which will affect the opinion and the practice of the civilized world. We have already seen the prodigious influence of Grotius in softening the barbarisms of war, and binding different peoples in more humane relations. It is a matter deeply to be regretted, that American and British publicists since his time have done so little to express Christian and humane ideals in their treatises on International Law. In a science which rests so much on opinion and the principles of equity, each author might have advanced it, almost as Grotius did, by urging all practicable principles of Christianity. The Code of Instructions adopted by the American Government in the Civil War, and Prof. Bluntschli's Code are both great steps in advance, and must influence all future relations of nations. Another project of an International Code by an American publicist, Mr. D. D. Field, has attracted much attention in Europe, from its humane proposals. It will be a long period before these humane essays towards a form of law which shall govern all the civilized world, will be accepted. Yet they make a foundation for the better future. The opinion of the world already has a prodigious power over all nations. And these careful embodiments of its humane feelings and ideas must add to this power.

COURTS OF ARBITRATION.

But the final step to the "Universal Peace," so long dreamed of by moralists, will be the formation of International Courts of Arbitration, vested with the powers of Courts by all the great nations. It is admitted that the times are not ripe for this as yet, and may not be for many centuries. In 1873, Mr. Richard presented a motion to the British Parliament, only indicating an approach towards such a reform: to the effect that the Queen be humbly requested to instruct her Minister of Foreign Affairs to enter into communication with foreign Powers, having for their object to ameliorate International Law, and to institute a system of permanent and general International Arbitration.

Mr. Gladstone and other orators expressed many doubts of the project; but the motion passed (July 9th), after much discussion, and on the 11th, the Queen replied to it in conciliating words which guardedly expressed much sympathy in the project, without committing the Government to fixed promises.

In the Italian Parliament, Sig. Mancini presented (August 24, 1873) a somewhat similar motion to Mr. Richard's, except that he confined Arbitration more particularly to disputes on commercial interests or similar subjects, and he would introduce into all treaties a clause referring disputes on them to arbiters, and pursue the previous policy of Italy in rendering uniform and obligatory, the rules of "private International Law." This moderate position was well received in Italy.

Other States followed this example. The lower Chamber of the Kingdom of Holland (Nov. 27, 1874) passed a motion of a similar character, and urging Arbitration for all international difficulties. The Belgian House of Representatives adopted a similar resolution unanimously in favor of Arbitration (Feb. 17, 1875). The Swedish Second Chamber voted by a large majority an address to the King, praying for efforts towards a permanent Tribunal of Arbitration between nations.

It will thus be seen that many public bodies in Europe and America have seriously considered this benevolent project. It is well known that eminent individuals, in advance of their age, have long urged it as the greatest reform needed among nations. Grotius, as we have seen, contemplated it as a possibility. Leibnitz, William Penn, Bentham and many others argued for it; Kant's project for a Universal Peace through Arbitration, and the similar views of the Abbé de St. Pierre and of Rousseau, are too well known to need recapitulation.

These humane purposes and projects took a definite form in the International Conference of Brussels in 1874, called especially at the request of the Russian Government. The invitation to this Conference contains words worth citing: "The more that solidarity," says Prince Gortschakoff, "becomes developed which tends in these times to bring together and to unite nations as members of one family, the more their military organization tends to give to their wars the character of conflicts between armed nations, the more necessary does it become to determine with greater precision the laws and usages admissible in a state of war, in order to limit the consequences and diminish the calamities attendant upon it, so far as may be possible or desirable." * The fifty-six articles which were especially to be considered by the Conference, embraced most of the points treated so thoroughly in the American Instruc-

* Despatch of Prince Gortschakoff, March 4, 1874.

tions and the Bluntschli Code. The Conference does not seem to have produced much effect, perhaps partly from the want of sympathy in its objects by the British Government, and partly because the great Powers have not reached the point of moral advance, in which these reforms seem indispensable.

The formation of an "Institute for the Codification and improvement of International Law" in Europe and the United States, which has already urged the most humane reforms through eminent authorities, is another evidence of the power of humane Christian opinion on this great subject.

The great objections to the formation of a permanent Court of Arbitration, with executive Powers furnished by each nation, are undoubtedly the fear that such an authority would threaten the independence of single States, and that the execution of its decisions would only create new wars, instead of abolishing old. But it would not be difficult to form a judicial authority with limited powers, which would only have the right to decide and act upon definite questions, such as do not affect the independence of a State. Each nation would yield up certain of its rights to a power of which it was a part, in the interest of general peace. Of course, great care would be necessary to prevent the Court from becoming corrupt, or an agent itself of tyranny and injustice. These obstacles, though formidable, do not seem insurmountable. Almost as great were overcome in constituting the Federal Court of the United States. The interest of all nations is especially in peace. And many temporary annoyances might be endured, in a certain yielding of powers, for the sake of so great a blessing. The enormous expenses of large standing armies would be in part saved, as each Power would need only to contribute its quota to the executive forces of the International Court. Even questions, which are supposed to affect the honor or independence of a State, would often come before such a Court, not for executive decision but for its opinion. And an opinion from such an authority would have an incalculable effect on any civilized Power. Even the mere stopping, before the rush to arms, to hear an impartial judgment on the quarrel, would exert a profound influence on the approaching belligerents. The voice of reason and religion would thus have a chance to be heard.

The full Christianization of International Law awaits the slow action of Christianized public opinion. But much may be done,

as much has been done, to humanize the relations of nations, to soften the asperities of war, to lessen its causes and finally to prevent it. If the Christian Church throughout the world were fully aroused to its duties in this matter, and were aware how far behind the precepts of the Master, his nominal followers are, there would long ago have been a public opinion in Europe and America which would have rendered any war difficult if not impossible.

Peace among all men and all nations is the ideal presented by CHRIST. And by one class of means or other when at length His teachings have thoroughly permeated mankind, this ideal will be attained.

II. INDETERMINATE SENTENCES AND THEIR RESULTS IN NEW YORK.

BY Z. R. BROCKWAY, SUPERINTENDENT OF THE ELMIRA REFORMATORY PRISON.

(Read September 8.)

Thoughtful men must be interested in efforts to reduce to the standard of reason the penal laws and system of a State or Nation, for these form a considerable part of every system of legislation and are of great importance to the happiness, peace and security of every member of society. The growth of population in our own country, with the consequent development of resources and civilization, forces upon us an increased interest; for, while the ratio of crimes to the population remains substantially unchanged, its greater density offers new incitements to crimes, and the quickened sensibility of the public mind is more prone to take cognizance of them. The accumulation of convicts in prisons, the pecuniary burden of providing suitable prison establishments and sometimes of supporting the prisoners, the danger to be reasonably feared from the constant release of criminals who are unreformed or rendered worse by imprisonment, form another reason for giving attention to the matter, as does also the manifest incongruity between the penal code, the prison system, and the intelligent thought of the time upon the subject of crime and the treatment of criminals.

Since government derives its strength and authority from the consent of the governed, who, wearied of the strifes and uncertainties of natural independence, voluntarily sacrifice some part of it to enjoy the rest in peace and security, it must be administered with beneficent design, and so as really to promote the prosperity and happiness of society at large, or, failing to fulfil its office, will sooner or later be overthrown. Society being composed of individuals, the welfare of the whole involves the welfare of each, upon the acknowledged principle that "the strength of a nation is in proportion to the virtue and intelligence of the people." There may possibly arise isolated cases where the interests of the individual sacrificed shall promote the interest of the whole; but this is confidently denied, it being alleged that the general interest of society embraces that of each individual member, and that when there is apparent conflict it is because of the narrow selfish-

ness and short-sightedness of men. But, in reality and truth, when rightly viewed, there is no conflict at all. It follows, then, that the best welfare of each individual, whether good, bad or indifferent, is identical with that of society at large; and any law or system, created or administered in disregard of the humblest or the worst, is wrong in principle, weakens the government itself and works injury to its subjects.

For the purposes of this discussion the subjects of a government may be divided into two classes, under the head of law-makers and of law-breakers,—those who frame laws, found institutions and foster them, and those who feel the force of the former, who comprise the population of public institutions and fight against them both. The source of the former classification is with the well-to-do, the educated, the religious, forming the respectable classes; men having measurably clear views of the true policy for their intercourse with others, whose natural impulses are in the main right, whose minds hold the instincts subservient to reason, and whose will controls the mind. These are not under law, are not restrained from crime by its penalties; they have by inheritance or development been emancipated and no longer feel its bondage; they are naturally benevolent, they do not need rules to guide them clear of others' rights.

The source of the law-breakers, and their distinctive traits, though equally clear, are not so easily stated. They are poor in purse, degenerate in their whole being; and this springs very largely from their origin. Since feudal times, we know the land in Europe has been much absorbed by the nobles and the gentry; and, even now, tenants are driven from their hamlets and homes to find shelter and sustenance, amidst degraded surroundings in the crowded communities of towns and cities. One half of England, it is said, is owned by 150 persons, and 19½ millions of acres in Scotland by twelve great landed proprietors. The rural populations of England and Ireland, from which emigration is largely supplied, are, according to English authority, living on insufficient diet and in scanty homes. An official report made to Parliament, not many years since, on dietaries in county and borough gaols, including an account of the diet of the rural population, also, the result of the medical inquiry ordered by the Privy Council, at about the same time, as to the food of the poorer classes in England, both show an alarming deficiency, with great consequent

physical and mental degeneracy. That such physical and mental condition gives prevalence to crime, is probable, and this view is supported by abundant statistical evidence. Reports on the sanitary condition of the laboring population of England show, also, that their cottages are such as to degrade their social life, containing sometimes three, but oftener, only two rooms, and, in a great many cases, only one room; that, frequently, where only one room was available for the whole family, men were taken in as lodgers, so that in some parishes, it is reported the number of illegitimate children exceeded that of those born in wedlock. The writer significantly says: "The consequence of this state of things on the rising generation may be imagined." This insufficiency of food, and of everything that is necessary to the comfort and decency of domestic life, must produce a low moral condition; and, can there be any doubt that degeneracy of character is the condition favorable for the commission of crimes? Indeed, is not crime the natural and sure product of such character?

Now, of 100,000 prisoners received into various prison establishments in this country, fully seventy-five per cent. were of foreign parentage, and the remainder were almost uniformly from a low social condition in our own country. Almost all of them were poor in purse and of dissipated habits, so that by circumstances, as well as by inheritance, they were enticed towards crime.

These facts must not be ignored. When we come to frame laws and organize institutions, we are bound to consider them or suffer the consequences of our neglect. I would not stay the stream of immigration, whose benefits are gratefully acknowledged. We are proud of our adopted fellow-citizens, many of them nature's noblemen, gladly raising them to the honors and responsibilities of official position; and we welcome, also, to our broad fields and free political institutions, the poor and afflicted of other lands, — of *all* other lands; nevertheless, the new element thus introduced demands consideration; and a careful adjustment of laws and institutions is indispensable.

THE LAW-BREAKERS.

Criminals are of three classes, or are to be found in one of three stages of deterioration: (1) Those who from infirm physical constitution, or weak mind, or impotent moral faculties, become mendicants, and live by such occupations as tend to engage them

in affrays and various violations of law, either as principals or participants: (2) Those who are usually industrious, but are engaged in such pursuits for a living, menial, or otherwise, as yield a bare subsistence, leaving for them only the coarser sensual indulgences, to relieve at all the drudgery of their lives: (3) Those who, for living with such excitements as they desire, deliberately pursue a vicious course until they are caught and compelled to desist by the constraints of custody.

Each of these classes has its peculiar degraded physical organization which is at once a source and a sign, to the experienced eye, of the tendency of the mind within. Morbid physiques and vitiated tastes, weak or unbalanced wills, and the sway of instinct rather than reason, are some of the distinctive traits of the class under consideration. Such conditions of character come to them often without choice of the possessors. The culture or unculture of the early life, in the surroundings into which they are born, and the influence of hereditary tendencies have an important bearing. The well-informed now declare the doctrine that blindness, deafness, deformity, orphanage, idiocy, insanity, pauperism and crime are but various forms of dependence and are of essential identity.

In this connection some facts which I have gathered may be of value. Forty-four per cent. of prisoners inherit from their ancestry whatever of nervous disease and vicious impulse is transmitted by intemperance, gross ignorance, licentiousness, epilepsy, pauperism, *all* these; 20 per cent. inherit from intemperance, ignorance and epilepsy; 14 per cent. from intemperance and extreme irritability, amounting almost to insanity; 12 per cent. from intemperance and pauperism, while only four per cent. spring from healthy stock and favorable early influences. It is further shown that 28 per cent. of prisoners have relations who are criminals.

One writer says, "The essential nature of crime and of pauperism being so nearly the same, we find, by prosecuting our enquiries, that *the causes of both are the same*. The cause may be internal, personal to the man himself, it may be disease, misfortune, vice, or it may be external, he may be a pauper or criminal, not on account of any personal peculiarity in which he differs from other men, but on account of his peculiar circumstances and relations, over which, possibly, he has no control—good men, as the world goes, are sometimes driven into crime or made paupers perforce. The cause may be immediate or it may be remote. Character and

circumstances are an *inheritance*. But in any case, it is always from one of two things that pauperism or criminality immediately springs, either a *defective supply* of the essentials for right development, or of constitution derived from ancestors; or else it is *excessive expenditure*, intemperance, prodigality, license."

It seems to follow from this premise that in either case the true office of a government that seeks the highest good of *all* its subjects is not punishment for the sake of punishment, but punishment, or rather treatment, for protection and cure.

But whether crime is the result of disease or deliberate wickedness, it can make no difference in the principles of treatment; for in either case due regard for the safety of society and the best intents of the prisoner, himself, should prevent his summary release and suggest his restraint until restored to a better frame of mind. We cannot ascertain how far a criminal is morally responsible for a given act, and we cannot therefore safely administer vengeance, and the Almighty has reserved this office to Himself by inspired declaration: "Vengeance is mine, I will repay."

I suppose every body will agree that the ultimate object of public punishment is the diminution of crime to the lowest attainable point; and it may seem presumptuous to deny that the deterrent principle, so captivating to the mind on its mere mention, having such fast hold on public favor in all ages, is the true basis on which to build a system of penalties for crimes; yet it is repudiated by most eminent jurists, by some prison managers, and by a few theologians. "The object of punishment," declares Beccaria, "is not to torment a sensible being nor to undo a crime already committed. Can the groans of a tortured wretch recall the time past or reverse the crime he has committed? The end of punishment, therefore, is (1) to prevent the criminal from doing further injury to society, and (2) to prevent others from committing the like offence."

Mr. Adderley says: "If every stroke on the shoulders of a thief should scare thousands of outstretched fingers from diving into honest men's pockets, and save the owners of these fingers from pain and disgrace, it would be a state of things very agreeable to contemplate; but," he continues, "it is for the most part only a creation of the fancy.

"Deterrents have a certain degree of power beyond all doubt, and the power, such as it exists, is of the kind indicated by

the maxim 'The fears of the many arise from the pains of the few,' is freely admitted. But each expedient which that maxim suggests has been tried in every possible form, and the state of crime in all ages and in all countries abundantly supports the assertion that deterrents, however used, whether in large or small doses, whether at once or with repetitions extended over a long period, are but weak agents and cannot be relied upon for any efficacious repression of crime."

It is admitted that if both certainty and proximity of punishment could be secured for every offence the deterrent principle might be more efficient; but this cannot be. The fact is, the professional criminal looks upon detection and punishment as the tradesman looks upon a bad debt, namely, as a misfortune incident to his occupation and he draws the same lesson from it, that is, to be more watchful in future. Dr. Bittinger estimates that only twelve per centum of crimes are detected and punished; and what is true of the past and present will probably be true of the future. Even if it could be that every offence was swiftly and properly punished, it is too much to expect that the criminal class would be sufficiently restrained by it. They are exceptional, not amenable to the restraints found sufficient to govern the bulk of society. But a small portion of the prison population are professionals calculating the chances of detection as a business risk, but they are ignorant, impulsive youths who rush headlong into crime with no just apprehension of its immorality, its cruelty or the consequences to themselves; and while a diminution of particular crimes in a given community may be, or has been, had through certainty, proximity or severity of punishment, it is believed in a short time this effect would be lost, for (Beccaria) "The minds of men in familiarity with punishments, as a fluid rises to the same height with that which surrounds it, grow hardened and insensible; and, the force of the passions still continuing, in the space of an hundred years the wheel terrifies no more than formerly the prison. Then, too, if punishments are to deter by intimidation they must be frequently applied, which involves frequent punishable crimes, so that the very crimes disprove the deterrent effect designed. The assumption that the deterrent force of punishment upon the criminal himself will increase in proportion to the certainty, proximity and pungency of its infliction, would possibly be right if there were any means of stereotyping the state of mind in which the criminal

finds himself at the moment of suffering. But that is just where we fail. However, keep the impression produced, it soon wears away."

The best to be said for deterrent punishment is, that the associated ideas of pain and crime, coeval as they are with civil government, have wrought into the human mind an actual, if unconsciously, restraining influence. The conduct of all is doubtless determined by unmeasurable influences, operating upon us consciously and unconsciously, among which may be properly named, no doubt, the statutory laws and penalties against crime. But it should also be recognized that the spirit of the criminal laws, in a long period of time, becomes impressed upon the people, tending to cultivate a public tone favorable or unfavorable to the commisssion of crimes; and it is important in this regard that the law shall be high-toned and benevolent, not unnecessarily severe or vindictive. The effect of the penalties of the law upon character is more apparent with criminals directly subjected to them, and a somewhat extended observation shows that the effect of the present system is often injurious.

That time sentences, generally determined by statute before the criminal is arraigned, and particularly imposed by the court at the time of conviction, cannot properly insure either the one or the other, is now a well-settled opinion among those best competent to judge, and seems to be, well-nigh, a self-evident truth. It is not difficult for the court to determine, in the presence of the convicted criminal, whether the safety of society requires that restraints of custody shall be imposed; but since safety can only be secured by continued custody or reformation, beyond that the court cannot properly go. Knowing but imperfectly the character of the criminal at the time of conviction, and, therefore, unable to foresee the necessary changes to be wrought for safe citizenship; not knowing the discipline to which the prisoner will be subjected, or the influences to impress him, no attempt should be made to predetermine the period of custodial incapacitation, and the date when the prisoner may be safely released. It has been observed, too, that a definite sentence is of evil effect upon the prisoner's mind, and is a hindrance to his reformation. If he esteems it too long, he is at first exasperated and then depressed,—if too short, he cherishes present preferences, and hopes for the return to old associations and vicious practices,—and, in any event, the time

sentence diverts the prisoner's mind from the matter of his own improvement, by engrossing his attention upon the passing time to be endured as easily as may be. It would be a novelty indeed to find a prisoner who, upon conviction, esteems his sentence just. One such case, however, now occurs to me. The prisoner having served out the allotted imprisonment said, "Now, I am quits with society. I inflicted an injury, society has paid me back an injury—that is settled and we now start even again." He plunged immediately into dissipation and crime, soon reaching imprisonment for the second offence of felony.

INDETERMINATE SENTENCES IN PRACTICE.

The recommendation is that upon conviction for crime the prerogative of the courts be simply to determine whether liberty shall be restricted, leaving the question, within due bounds, as to the extent and duration of imprisonment, to another tribunal of experts, which shall adjudicate only after careful observation of the criminal during imprisonment, and when he shall be adjudged a safe citizen,—that all criminals (with the possible exception of some of the most aggravated crimes on the ground of expediency) when committed to prison shall be sentenced indeterminately, the period of their incapacitation to continue, under proper direction and treatment, until such reformation is wrought as, with reasonable certainty, renders them safe citizens. The full idea properly applied would of course operate to continue the necessary control over incorrigible convicts throughout their natural lives, and without regard to their particular crime. It would also return to society at the right time such as are duly prepared. With reasonable perfectness in administration the system must secure for society better protection than is now had, and would probably reduce the population of our prisons to the true minimum. It is, I believe, from the standpoint of protection that Bishop Whately wrote, first presenting the plan, and that others have written, either urging the necessity for it, or recommending the remedy. Among such writers should be mentioned Sir John Bowring, William Tallack, Esq., and the late Counsellor M. D. Hill, for forty years Recorder of Birmingham,—all of England. Dr. Marquardon, of Bavaria; Signor Martino Beltrani Scalia, Inspector of Prisons in Italy; Fr. Bruün, Inspector-General of Prisons in Denmark; Dr. Despine, of France, in favor of indeterminate sentence; and in our own country such men as the

late Dr. Wines, Gov. Baker, Messrs. Merrill and Milligan, Drs. Bittinger and Byers, and Hon. Robert C. Pitman. The Michigan State Board, including two governors and a distinguished lawyer and judge, recommended, in 1875, a reörganization of the criminal laws of the State on this basis.

There is, however, another view of the proposition quite as important, — one that has not found so full an explanation, — I refer to the importance of the indeterminate sentence plan for its influence upon the prisoner, and for the aid it affords in any proper preparation of him for society. Our own State having, in 1877 (chap. 173), enacted a law relating to the Elmira Reformatory, which, though imposing indefinite rather than indeterminate sentences, still embodies the principles of the full idea. I am able to speak of the value of the system as a disciplinary and reformative agent (for only the brief period of the law, of course), but nevertheless from administering it, and after an observation of its practical effects.

This law gives discretionary power to courts of record to commit to the Reformatory, — instead of the State Prisons, — young felons, first offenders, who are between the ages of sixteen and thirty years; the court not to fix or determine the period of imprisonment. The managers of the Reformatory may release at any date not beyond the expiration of the maximum term for which the prisoner might have been sent to the State Prison. The managers have power, during the period of legal custody, to conditionally release, and, in case of a violation of the conditions of release, to rearrest and return to the confines of the Reformatory. The managers are required to adopt a "mark system," showing the progress, or absence of it, in each man. They must make a quarterly record of this, and a semi-annual statement of it to the Secretary of State. They must meet at least twice a year to see personally the men, and decide upon the parole or release of any. The probable influence of this plan upon reformation may be more apparent when it is known that 82 per cent. of the inmates of the Reformatory have pleaded guilty before the courts, and that (under the law) they are conveyed from the place of conviction to the place of confinement by an officer of the prison selected for that purpose. There is a recognition of the kindly intent of the law, and an absence of the dissatisfaction and bitterness engendered by a definite sentence imposed at the time of trial, and which is necessarily retributive, if not vindictive, and of evil effect as before

described. Indeed, its chief value is seen in the state of mind it produces or enables, and in that it transfers treatment of criminals from bodily discomfort and pains or pain of any kind, whether bodily or mental, to the treatment of the mind; to make possible for it some rational conception of right living, some right desire to so live, and some reasonable expectation of realizing happiness from such a change. Charged as the government of the prison is, under the law and system, with the duty of restoring the prisoner to liberty, as soon as he can satisfactorily show some reasonable probability that he will live at liberty without violating the law, — and when he can be released without offence to society, — the officers and the prisoner have at once a common interest, and are laboring together for a common result, relieving, therefore, the usual sentiment of opposition existing in such cases to make discipline difficult. It may not be generally known that the first and great obstacle to the reformation of criminals consists in their own thoughtless ignorance of what it is that constitutes character, or their indifference and even repugnance to their own proper improvement, — and it is found, practically, very difficult to interest them. They are so occupied with counting the passing time, it flies so swiftly, and the hopes or depressions associated with the predetermined date of release so absorb them, that there seems to be no place for repentance. The indeterminate and even indefinite sentence changes all this at the very beginning of his term, and the desire to be released, ever the strongest motive with prisoners, thus utilized for reformative ends, becomes an abiding and effective motive power for that purpose.

A very concise description of the system as applied in the Reformatory at Elmira has been made, and is as follows:

Upon the arrival of an inmate, always under charge of the transfer officer of the Reformatory, and after a night's rest, he is photographed, and, at the convenience of the Superintendent, is subjected to a long, searching, and instructive examination. The enquiry covers a large field—the family, the ancestors, the occupation of the parents, their habits, the habits of the prisoner, his literacy or the reverse, his own habits as to occupation, industry, regularity of performance and residence, his physical health and its grade of quality as among men, the natural capabilities of his mind, and present education or undevelopment, and, so far as may be, his moral state. Upon this examination an estimate is made,

and a plan of discipline or treatment prescribed. The new comer is instructed as to the plan of the institution, and the best way of availing himself of its benefits. After a bath and a surgical inspection he is clothed and assigned to work, according to the indications of the special case. He is now classed in the second or neutral grade of inmates. By any misdemeanor he may fall into the third or convict grade; or, by cheerful good behavior through six continuous months, he is entitled to promotion to the first grade. This second or neutral grade exhibits nothing of the convict character: no hair cropping, no lock-step marching. It is a probationary grade; in it the new comer makes a reputation. He may fall, he may rise.

In the third, or convict grade, the discipline is substantially that of an ordinary State prison. Strict separation from the upper grades at marching, meals, assemblies, and at night, shaving, enforced lock-step marches and silence.

In the first grade the privileges are but little less than those enjoyed by cadets in a military school. Good rooms, good dietary and table furniture, freedom of touch and motion, and, by-and-by, parole enlargement or conditional discharge. The estimate by which these pupils rise or fall, gain or lose standing, is threefold: 1, deportment; 2, industrial proficiency; 3, literary or intellectual growth. An account is kept in the office books, and every inmate has his own pass-book, which (as in banks) is written up for his information once a month.

The industries practised are chiefly brush-making and hollow-ware castings, and fitting, tinning and enameling iron. There is no letting of labor to contractors. Of course the domestic work of the institution, cooking, washing, tailoring, cobbling, &c., is performed by quite a company of the regular inmates, and quite a number are engaged in duties semi-official, as subalterns having to do with the routine and government of the establishment.

The school is organized and graded by a crop of approved teachers, selected from the schools of Elmira, and a course of scientific instruction by lectures is maintained. The school-rooms, and especially the large lecture-room, are bright and very attractive. Instruction is given by nine selected teachers. Proficiency in study is ascertained by monthly written examinations, and upon it depends in some degree the duration of the inmates' detention. This motive serves to arouse the dullest intellect. Complaints of

inaccuracy or injustice are freely and cheerfully listened to by the Superintendent, an appeal from his decisions may be taken to the managers, and, in extreme cases, the question and the evidence are heard by a jury of first grade prisoners who find a verdict. Enlargement on parole is ordered or authorized by the managers at their quarterly meetings.

A very comfortable hospital is provided for the sick. The hospital beds are for the most unoccupied, and the death rate is extremely small.

Religious ministration is provided by the lecturer for Protestants, and for Catholics, by a clergyman resident in Elmira. The prisoners do not show the dogged, sullen, driven look sometimes met in the penitentiaries. They work with a will under the stimulus of the natural, healthful motive, *something to gain.* The first offender entering here is at once put upon a course calculated to conserve his self-respect, cultivate his self-control, industrial efficiency and intellectual growth. Passing through the grades with a gradual relaxation of restraints, he is finally tested by a period of parole, and then, when really installed in the current of healthful society and business, he receives his absolute release.

The present number of inmates, (March, 1881,) is .		710
Domiciled within the Reformatory, . . .	500	
In legal custody, but out on parole, . . .	210	
Total, ...		710

The grade *status* of the five hundred is as follows, viz:

In the neutral grade, before described, two hundred and twenty-five (225), or forty-five *per centum* of the whole.

In the first grade, a prefatory stage immediately preceding conditional release, two hundred and eleven (211), or forty-two and two-tenths *per centum;* and in the third or convict grade, twelve and eight-tenths *per centum.*

The whole number released on parole has been three hundred and seven (307), of which number ninety-seven, having performed satisfactorily for the parole period of six months or more, are absolutely released. The remaining two hundred and ten, still in legal custody, are at present situated as follows, viz:

One hundred and fifty-two (152) are in correspondence and doing well. Eighteen (18) have ceased correspondence,—one-half at least are estimated as doing well, and the other half have

probably left the State. Eleven (11) have voluntarily returned, sick or out of situations, to be relocated by the Superintendent. Two (2) died while on parole. Twenty-one (21) were brought in for violating their parole, but without crime; while three (3) were brought in having been charged with crime but not convicted. Three (3) absconded.

The average period of detention within the Reformatory of those who have been paroled, is nineteen (19) months.

There are no statistics showing satisfactorily the conduct of criminals released from the State prisons at the expiration of their definite sentence. It is known, however, that of those confined here on definite sentence, who were committed previous to the new law, and discharged at the expiration of their term, some have been since received into the State prisons for crime, while it cannot be as yet ascertained that any of our men paroled have been so received.

There must be a great advantage not only in the system under which men are detained here during imprisonment, but also in the system of release. The statistics as to the three hundred and seven (307) released show, beyond peradventure, that society has today good protection as against all but twelve (12), namely, the one-half of the eighteen who ceased their correspondence, and the three who absconded. If to the present number imprisoned there be added the remaining two hundred and ninety-five (295), it gives seven hundred and ninety-five young felons held under restraint and training. If this system of sentence, well administered, is applied to the prisoners of a State, where public sentiment is enlightened and reasonably pure, a veritable and observable preventive of crime will be had.

The reformation of criminals is frequently retarded too, by the rigid prison rules, by the watch-dog surveillance, and by the reproofs and punishments required to govern, in the absence of that coöperation of the prisoner himself, only to be surely had upon this plan. The indeterminate sentence, with a wise system of rewards, such as may be arranged under it, so enlists the prisoner with the officer, that this obstacle is removed. I have administered under the definite system, and have used some of the sharper prison punishments, and can, therefore, say from experience, that no punishment can compare in efficiency for government with the force of a mark system, based on the indeterminate

sentence. The controlling power is radically different too, the one being extraneous to the man himself, which, when removed, leaves him substantially as he was before, and always, a dangerous subject; while the other develops control within himself, an absolutely indispensable quality of character to insure safe citizenship. I verily believe, with a nice classification of prisoners under this system, prison punishments, properly so called, may be almost, if not entirely dispensed with. There are yet other important considerations in favor of this measure. It removes the date for determining the duration of imprisonment away from the time of trial, with its excitements, its prejudices, and any influence of popular clamor, so that it is more likely to be based on the real character of the criminal, and the actual need of society for protection. It secures the return of reformed prisoners to society at the right time, and under the most favorable circumstances, regulating the degree of restraint, as well as its duration. It enables the speedy correction of errors and wrongs, sometimes unwittingly inflicted upon young offenders, in the hurry of trials in metropolitan courts not only, but also the correction of errors possible to be made by the prison managers, in releasing improper subjects. At least they may rearrest and return to confinement or rid the State of the presence of such men.

In short, and in any view, it must be that the undetermined sentence plan will give greater protection to society, from criminals once convicted and imprisoned; it will promote the reformation of such as may be reformed, and the remainder it will restrain. It must also operate to reduce the prison population to its true minimum; to be composed of such, and such only, as really require restraint.

III. CHANGES IN AMERICAN SOCIETY.

BY MRS. JULIA WARD HOWE, OF BOSTON.

(Read Friday, September 10.)

I have been invited to speak to you today concerning changes in American society. In preparing to consider this subject, I cannot but remember that the very question of social change is to some people an open one. The supposition of any real onward movement in society is as unwelcome and as untrue to these persons as was Galileo's theory concerning the revolution of the earth around the sun. They will assert, as indeed they may, that the same crimes are committed in all ages, with the same good deeds to counterbalance them, and that the capital tendencies of human nature are always substantially the same. This, also, must be allowed. The error of these friends consists in overlooking the most characteristic and human of these tendencies, which is that of progressive desire. This trait, deeper and stronger than the mere love of change, pushes the whole heterogeneous mass of humanity onward in a way from which there is no return.

The laws of human motive and action, meanwhile, remain as steadfast and immovable as the laws by whose application Galileo made his discovery. To discern at once the steadfast truth and its metamorphic developments will be the task of the greatest wisdom.

When Theodore Parker invited the religious world to consider the transient and the permanent elements of Christianity, he made a popular application of a truth long known to philosophy. This truth is that life, in all of its aspects, exhibits these two opposite qualities or conditions. Much is transient in the individual, more is permanent in the race.

The study of anthropology, so greatly enriched today by discovery and investigation, would give us much to say under both of these heads, but most, I think, under the last.

I remember that in reading Livy's history of the second Punic war, in our own war time, I was struck by certain resemblances between the time in which he wrote, and that in which I read him. When I learned from his pages that the merchants and ship-owners of ancient Rome managed to impose the most worthless of their vessels upon the government for the transport of troops and provisions, I exclaimed, "What Yankees these Romans were!"

In reading some well-known satires of Horace, I have been struck with the resemblance of the ancient to the modern bore. Boileau's famous take-off of the dinner given by a *parvenu*, is scarcely more than a French adaptation of the feast of Nasidienus, as described by the Roman bard, who was Boileau's model.

In Virgil's account of the good housewife, who rises early in order to measure out the work of the household, and in Solomon's description of the thrifty woman of his time, one sees the value set upon feminine industry and economy in times far removed from our own, yet resembling it in this appreciation.

On the other hand, the dissimilarity of ancient and modern society is equally seen in the same mirror of literature. The mention of matters which, by common consent, are banished from decent speech to-day, the position of Woman, from the vestal virgin, buried alive for breach of trust, to the *devium scortum*, whom Horace frankly invites to his feast, the gross superstition which saw in religion little save portents and propitiation, — these mark on the dial of history an hour as distant from our own in sympathy as in time.

You will wish to hear from me some account of changes which have come within the sphere of my own observation, both as I have been able to see for myself, and to compare what I have seen with what I have received from the generation immediately preceding my own. Let me remind you that, with all the advantages of personal observation, it may be more difficult for us to give a true account of the age to which we belong than of more distant times, upon which thought and reflection have already done their critical and explanatory work. Familiarity so dulls the edge of perception, as to make us least acquainted with things and persons making part of our daily life. Mindful of these difficulties, I will do my best to characterize the threescore years which have carried me into and out of the heart of the nineteenth century.

I have seen in this time a great growth in the direction of liberal thought, of popular government, of just laws and useful institutions. I have seen human powers so multiplied by mechanical appliances as to destroy the old measures of time and distance, and almost to justify the veto once laid by the great Napoleon upon the use of the word "impossible": "*Ne me dîtes jamais ce bête de mot*," said he; and it has now become more *bête* than ever.

What feature of society has not changed in the phantasmagoria

of these wonderful lustres? Each decade has made a fool of the one which went before it. Whether in the region of extended observation and experiment, or in that of subtle and profound investigation, human effort has seemed in this time to put itself at compound interest, working at once with matters infinitely little and with matters infinitely great, and surely introducing mankind to a higher plane of comfort and coöperation than has been reached in anterior ages.

While the mechanism of life has thus been brought much nearer to perfection by the labor of our age, the principles of life remain such as they have always been.

Pile luxury as high as you will, health is better, and the body of a well-fed and not over-worked ploughman is, nine times out of ten, a better possession than the body of a man of fortune, especially if he be at the same time a man of pleasure. Marshal and gild the pomp of circumstance, and do it homage with bated breath, character remains the true majesty, honor and intelligence its prime ministers. Money can help people to education, by paying for the support of those who can give it. But money cannot excuse its possessor from the smallest of the mental operations through which, if at all, a man comes to know what, as a man, he should know.

The great *desiderata* of humanity still remain these: to preserve the integrity of nature, the purity of sentiment, and the coherence of thought. The great extension of educational opportunities which we see today, should make the attainment of these objects easier than in ages of less instruction. But while the pursuit of them is ever normal to the human race, the inherent difficulties of their attainment remain undiminished. Without self-discipline and self-sacrifice, no man today attains true education, or the dignity of true manhood. For here comes in the terrible fact of man's freedom as a moral agent.

Could our age possess and administer the powers of the universe to its heart's content, in that heart would yet rest the issues of its life and of its death.

The period of which I have to speak has certainly witnessed great improvements in the theory of hygiene. The old heroic treatment of diseases has nearly disappeared. The nauseous draughts, the blood-letting and blisters, have given place to moderate medication, the choice of climate and the regulation of diet. Women

have been admitted as copartners with men in the guardianship of the public health. Athletic sports help the student to fresh blood and efficient muscle, without which the brain sickens and perishes.

But even in this department, how much is left to desire and to do! Our greatest and richest city is still festering with the corruption that breeds disease. No board of health seems to have power to sweep its side streets and dark alleys. Fashion keeps her avenues clean, and neglects the rest of the vast domain, for which she has her reward in many a ghastly epidemic. The late Edward Clarke, of Boston, — heaven rest his soul! — could alarm the whole continent with his threats of the physical evils which the more perfect education of one sex would entail on both. But he has left no public protest against the monstrosities of toilet which deform and mutilate the bodies of women today, nor against the selfish frivolity of life in both sexes, which is equally inimical to true motherhood and to true fatherhood.

I have seen in fashions of dress and furniture the curious cycle which my elders foretold, and which it takes, I should think, half a century to fulfil. My earliest childish remembrance is of the slim dresses which display, as much as is possible, of the outlines of the figure. I remember the *élégantes* of Gotham walking the one fashionable street of fifty years ago, attired in pelisses of pink or blue satin. A white satin cloak, trimmed with dark fur, seemed, even to my childish observation, a chill costume for a pedestrian in the heart of winter. My mother's last Paris bonnet, bought, probably, in 1825, appeared to her children, twenty years later, such a caricature, that pious hands destroyed it, in order that we might have no ludicrous association with the sweet young creature whose death had left us babes in the nursery.

After many fluctuations and oscillations, I have seen modern head-gear near of kin to the subject of this holocaust. I have seen the old forms and colors return to popular favor. I have even heard that the very white satin cloak, which seemed *outré* to the critic of six years, has been worn and greatly admired in the recent gay world of Paris. The return in these cases, it must be said, is not to the identical point of departure. Progress, according to some thinkers, follows a spiral, and is neither shut in a circle, nor extended in a straight line. The hoops of our great-grandmothers are not the hoops which we remember to have seen or worn. Their eelskin dresses are not the model of ours. Still, the recurrence of

the same vein of fancy marks a periodical approximation to the region or belt of influence in which certain forgotten possibilities suggest themselves to the seeker of novelty, and in which the capricious, antithetical fancy delights to crown with honor all that it found most devoid of beauty a few lustres ago.

Does this encyclical tendency in the familiar æsthetics of life imply a corresponding tendency in the moral and intellectual movement of mankind? I fear that it does. I fear that seriousness and frivolity, greed and disinterest, extravagance and economy, in so far as these are social and sympathetic phenomena, do succeed each other in the movement of the ages. But here the device of the spiral can save us. We must make the round, but we may make it with an upward inclination. "Let there be light!" is sometimes said in accents so emphatic, that the universe remembers and cannot forget it. We carry our problem slowly forward. With all the ups and downs of every age, humanity constantly rises. Individuals may preserve all its early delusions, commit all its primitive crimes; but to the body of civilized mankind, the return to barbarism is impossible.

The æsthetic elaboration of ethical ideas, always a feature of civilization, becomes in our day a task of such prominence as to engage the zeal and labor of those even who have little natural facility for any of its processes.

The ignoring of this department of culture by our Puritan ancestors, had much to do with the bareness of surrounding and poverty of amusement which almost affright us in the record of their society. With all their insufficiency, these periods of severe simplicity are of great importance in the history of a people. The temporary withdrawal from the sensible and pleasurable to the severe verities of ethical study accumulates a reserve force which is sure to be very precious in the emergencies to which all nations are exposed. The reaction against the extreme of this is as likely to be excessive as was the action itself.

If we tend to any extreme, nowadays, it is to that of making Art take the place of thought, as may somewhat appear in the general rage for illustration and decoration.

The ministrations of Art to ethics are, indeed, unspeakably grand and helpful. The cathedrals of the Old World, and its rich and varied galleries, preserve for us the fresh and naïve spirit of mediæval piety. Religious art, indeed, becomes almost secularized by its

repetitions; yet each of its great works has the isolation of its own atmosphere, and speaks its own language, which we reverently learn while we look upon it.

Of all arts, music is the one most intimately interwoven with the ethical consciousness of our own time. The oratorios of Handel and of Mendelssohn so blend the sacred text and the divine music, that we think of the two together, and almost as of things so wedded by God, that man must not seek to put them asunder. When I have sat to sing in the chorus of the Messiah, and have heard the tenor take up the sweet burden of "Comfort ye my people!" I have felt the whole chain of divine consolation which those historic words express, and which link the prophet of pre-Christian times to the saints and sinners of today. In far-off Palestine I have been shown the plain on which it is supposed that the shepherds were tending their flocks when the birth of the Messiah was announced to them But, as I turned my eyes to view it, my memory was full of that pastoral symphony of Handel's, in which the divine glory seems just muffled enough to be intelligible to our abrupt and hasty sense. Nay, I lately heard a beloved voice which read the chapter of Elijah's wonderful experiences in the wilderness. While I listened, bar after bar of Mendelssohn's music struck itself off in the resonant chamber of memory, and I thanked the Hebrew of our own time for giving the intensity of life to that mystical drama of insight and heroism.

The Transcendentalists of our own country made great account of the relation of art to ethics, and perhaps avenged the Puritan partiality by giving art the leading, and ethics the subordinate place in their statements and endeavors. But the masters of the transcendental philosophy in Europe did not so. Spinoza, Kant, and Fichte were idealists of the severest type. Standing for the moment between the two, I will only say that the danger of forgetting the high labors and rewards of thought in the pleasure of beautiful sights and sounds is one to which the highest civilization stands most exposed. To think aright, to resolve and pray aright, we must retire from those delights to the contemplation of that whose sublimity they can but faintly image, as we pass with joy from the likeness of our friend into his presence.

Love of ornament is by no means synonymous with love of the beautiful. The taste which overloads dress and architecture with superfluous irrelevancies, is often quite in opposition to that true

sense of beauty which is indispensable to the artist and precious to the philosopher. "*To kalon*," the Greeks said. Was it a naïve utterance on their part? Was it through their poverty of expression, or their want of experience, that the same word with them signified the good and the beautiful? No. It was through the depth of their insight, and the power of their mental appreciation, that they so stamped this golden word as that it should show the supreme of form on one of its faces, and the supreme of spirit on the other.

The social domain of religion has also undergone a change. In my early life, I remember, that all earnest and religious people were supposed to live out of the great world, and to keep company only with one another, and with the subjects of their charitable beneficence. The disadvantages of this course are easily seen. Free intercourse with the average of mankind, is one of the most important agencies in enlarging and correcting the action of the human mind. The exigencies of ordinary intercourse develop a sense of the dependence of human beings upon each other, and a power corresponding to the needs involved in this interdependence. The religious susceptibilities of individuals, which are at once very strong in their character and very uncertain in their action, are liable to become either exaggerated or exhausted by a course of life which should rely wholly upon them for guidance and for interest.

Let us, therefore, by all means, have saints in the world, keeping to their pure standard, and recommending it more by their actions than by their professions. But these saints must be brave as well as pure. Unworthy doctrine must not escape their reprobation. When a just cause is contemned, they must stand by it. If the world shall cast them out in consequence, it will not be their fault. The social leagues which group themselves around the various churches of today, seem to me a feature of happy augury. It is the office of the church to inspire and direct the tone of social intercourse, and these associations should greatly help it to that end. I lately heard Wendell Phillips complain that church exercises nowadays largely consist of picnics and other merry-makings. Only a little before, Mr. Phillips, in his reply to Mr. Parkman's article against Woman Suffrage, had spoken of the growth of social influence as a good.

It does, to be sure, look a little whimsical to read on the bulletin of a Methodist church such announcements as this, — "Private

theatricals for the benefit of the Sunday-school." But Wesley introduced the use of secular tunes in his church on the ground that the devil should not have all the good music. Neither should he monopolize the innocent amusements with which, if they are left to him, he does indeed play the devil.

Although the great ocean will always hold Europe at arm's length from us, yet the currents of belief and sympathy bring its various peoples near to us in various ways. I remember to have taken note of this long before the ocean steamships brought the eastern hemisphere within a few days' journey from our own seaboard, and very long before the time-annihilating cables were dreamed of. The French have always had with us the prestige of their social tact and sumptuary elegance. The English manners are affected by those among us who mistake the aristocracy of position for the aristocracy of character. The Italians rule us by their great artists in the past, and by their subtle policy in the present. The Germans have, as they deserve, the preëminence in music, in metaphysics, and in many departments of high culture.

I have not long since been taken to task by a writer in a prominent New York paper for some strictures regarding the quasi-omnipotence of money in the society of today. The writer in question enlarged somewhat upon the greatly increased expenditure of money in our own country, as if this must be considered as a good in itself. He concludes his statement by remarking that Mrs. Howe has never studied the proper significance of the money question. I desire to say here only that I have not neglected the study of this question, which so regards the very life of society. One of its problems, I have ventured to decide for myself, viz., whether the luxury of the rich really supports the industry of the poor.

The æsthetic of luxury is a mean and superficial one. The critique of luxury is compliant and cowardly; and, despite its glittering promise to pay any price for what it desires, luxury orders poorly, pays poorly, and in the end undermines the credit of the State, the very citadel of its solvency. I regret and deplore its prevalence today, and consider it, not as the safeguard, but as the most dangerous enemy of republican institutions.

In our America, aye, even in our Puritan New England, the day has come in which economy is a discredit and poverty a disgrace. With the common school ever at work to lift the social level, unfolding to the child of the day-laborer the page which instructs the

son of the peer, the cry is still that money is God, and that there is none other. One may ask, in the business streets, whether rich people have any faults, or poor people any virtues. A woman who sells her beauty for a rich dower is honored in church and in State. Both alike bow to the money in her hand. One proverb says that Time is money, as if it were

"Only that, and nothing more."

Another proverb says that Money is power. And in this form, no doubt, it receives the most fervent worship, for luxury palls sooner or later, while ambition is never satisfied. But we constantly meet, on the other hand, with instances in which money is not power. Money does not give talent or intelligence. You cannot buy good government, good manners, or good taste. You cannot buy health or life. Do some of you remember the shipwreck, some twenty years ago, of a steamer homeward-bound from California? The few survivors told how the desperate passengers brought their belts and bags of gold to the cabin, and threw them about with a bitter contempt of their worthlessness. States have such shipwrecks, in which avenging Fate seems to say to those who have sacrificed all for wealth, "Thy money perish with thee."

The heroics of history are full of the story of great ends, accomplished by very small means. Now a handful of resolute men hold the forces of a great empire in check, and beat back the ocean surge of barbarism from the marble of their strong will. Now a single martyr turns the scale of the world's affection by throwing into the balance the weight of one small life. Now a State with every disadvantage of territory, cursed with sterility, or exposed to the murderous overflow of the salt sea, takes its stand upon the simple determination to conquer for itself a free and worthy existence. Frederick of Prussia and his small army; Washington, with his handful of men,—in these and so many other instances, we admire the attainment of mighty ends through means which seem infinitesimal in proportion to them. How shall it be in our country, to which Nature has given the widest variety of climate, soil and production? Shall we become a lesson to the world in the opposite direction? Shall we show how little a people may accomplish with every circumstance in its favor, and with nothing wanting to its success but the careful mind and resolute spirit? God forbid!

The belief in pacific methods of settling international differences has made a noticeable progress in my time.

In my school-days I remember a grave Presbyterian household at whose fireside I one day saw an elderly man seat himself, with little notice from the members of the family. I inquired who he might be, and was told, with some good-natured laughter, that this old gentleman was the American Peace Society, *i. e.*, the last surviving member of that association. This was a humorous exaggeration of the truth. Judge Jay, of New York, was living at that time, and all the enthusiasm of the peace cause lived in him, and no doubt in many others. I have remembered the incident, nevertheless; and when I have seen the stately Peace Congresses held in Europe and elsewhere, when I have seen rapacious England submitting to arbitration, when I have seen the flag of military prestige go down before the white banner of Peace, as in the late change of the ministry in that country, I have remembered that day of small things, and have learned that the faith of individuals is the small seed from which spring the mighty growths of popular conviction and sympathy.

The extensive wars which have taken place within the last forty years, as extensive and as deadly as any the world ever saw, are sometimes quoted in derision of those who believe, as I do, in the sober, steady growth of the pacific spirit among people of intelligence. The reasons for this advance lie deeper than the vision of the careless observer may reach. Within the period of our own century the value of human life to the individual has been greatly increased by the wide diffusion of the advantages of civilization. The value of the individual to the State has become greatly increased by the multiplication of industrial resources, and by the immense emigration which at times threatens to drain the older society of its working population. The spread of education has at once undermined the blind belief of the multitude in military leaders, and toned down the blind ferocity of instinct to which those leaders are forced to appeal. Wars of mere spoliation are scarcely permitted today. Wars of pure offence are deeply disapproved of.

The military and diplomatic injustice of past times has left unsettled many questions of territory and boundary which will not rest until they shall be set right. The populations which war has plundered and subjugated, lay their cause before the world's tribunal. In aid of this, the friends of the true law and order are ever busy in forming a nucleus of moral power, which governments will be forced to respect. Thus, though the war-demon dies hard, he

is doomed, and we shall yet see the battlements of his grim cathedrals places for lovers to woo and for babes to play in.

In religion I have seen the dark ministrations of terror give way before the radiant gospel of hope. I remember when Doctrine sat beside the bed of death, and offered its flimsy synonym to the eyes upon which the awful, eternal truth was about to dawn. I remember when a man with a poor diploma and a human commission assumed to hold the keys of heaven and hell in his hands, and to dispense to those who would listen to him, such immortality as he thought fit. I remember when it went hard with those who, in forming their religious opinions, persisted in daring to use the critical power of their own judgment. They were lonely saints; they wandered in highways and byways, unrecognized, excommunicated of men. No one had power to burn their bodies, but it was hoped that their souls would not escape the torment of eternal flame. I have seen this time, and I have lived to see a time in which these rejected stones, hewn and polished by God's hand, have come to be recognized as corner-stones in the practical religious building of the age. What a discredit was it once to hear Theodore Parker! How happy are they now esteemed who have heard him! Let not Mr. Emerson's urbanity lead him to forget the days in which polite Boston laughed him to scorn. Brook Farm was once looked upon as a most amusing caricature. But when the world learned something about Nathaniel Hawthorne, George Ripley, William Henry Channing, John Dwight, and George William Curtis, the public heart bowed itself with remorseful homage before the ruined threshold of what was, with all its shortcomings, a blameless temple to ideal humanity.

It is quite true that every change which I have seen in the society of my time cannot be said to be, in itself, for the better. The price of progress, like that of liberty, is eternal vigilance.

A time of religious enfranchisement may induce a period of religious indifference. Cosmopolitan enlargement may weaken the force of patriotism. The charity of society may degenerate into an indifference concerning private morals, which, if it could prevail, would go far towards destroying public ones. Humanity ever needs the watchman on the tower. It needs the warning against danger, the guidance out of it. I can imagine a set of prophets less absolute than the Hebrew seers, whose denunciation of evils, near or present, should always couple itself with profound and

sober suggestions of help. And this will be the work of faith in our day, to believe in the good which can overcome the evil, and to seek it with earnest and brave persistence.

Let me return for a moment, very briefly, to what I touched upon just now, the great changes in religious thought which this century has witnessed. What manifold contrasts have we observed in this domain! What a wild and wide chase in the fields of conjecture! What impatience with the idols of the past, historical and metaphysical! There have been moments in the last twenty years in which one might have said to the religious ideals of past ages that the time had come in which every one who raised his hand against them thought that he was doing God service. This iconoclasm had its time, and, one supposes, its office.

But the religious necessities of mankind are permanent, and will outlast any and all systems of pure criticism. The question arises, in all this havoc of illusory impressions, Who is to provide for the culture and direction of those instincts of reverence which are so precious to, so ineradicable in the race? We must ask this service of those who believe that religion is, on the whole, wiser than its critics. Those who have been able to hold fast this persuasion will be the religious trainers of our youth. Those who have relinquished it will have no more skill to teach religion than a sculptor will have to feed an army.

The greatest trouble with human society is, that its natural tendency leads it, not to learn right measure through one excess, but, on becoming convinced of this, to rush into an opposite excess with equal zeal and equal error. The mechanism of society requires constant correction in order to keep up the succession of order and progress through and despite this proneness to extravagance and loss of power. This rectification of direction without interruption of movement, is the office of critical and constructive thought. Precious are the men, and rare as precious, who carry this balance in their minds, and, while the ship lurches now on this side, and now on that, strain after the compass with masterful courage and patience. We have all known such men, but we have known, too, that their type is not a common one.

Among all who are out of work today, so far as the market is concerned, those men of careful and critical judgment are the least called for, and the least wished for by the majority of men. Headlong enthusiasm, headlong activity, headlong doubt and cynicism,

the prevalence of these shows the force with which the present whirl of the spindle was cast. Fair and softly, my quick-flying century. To find out whether you are going right or wrong, whether you are faithful or faithless, solvent or bankrupt, you must have recourse to these same slow, patient men and women, who try such questions by a more accurate and difficult method than that of the popular inclination.

I find that the philosopher Kant, writing more than a hundred years ago, remarks that in so sociable an age as his own, Culture must naturally be expected to assume an encyclopedic character. It will, he says, necessarily desire to present a manifold number of agreeable and instructive acquisitions, easy of apprehension, for entertainment in friendly intercourse.

These words seem prophetic of the efforts after general information, with a view to conversation as an accomplishment, which have constituted a marked feature of American and English society within forty years. In the dissolving view of the public predilection, this object has lost much of its prominence. The ornate and well-rounded periods of the conversationist are not more in request, nowadays, than were the high-sounding sentiments of Joseph Surface to Sir Peter Teazle, when experience had shown him their emptiness.

Blunt speech and curt expression rather are in favor. The heroines of novels are supposed to fall in love with men of a somewhat brutal type. Adonis is out of fashion. Hercules pleases, and even Vulcan is preferred. One thinks that the influence of the mercantile spirit may be recognized in this change. Long speeches and roundabout statements are found not to pay. The man who listens to them with one ear, hearkens with the other for the ocean telegrams, news of the stock market, considers the maturing of a note, the success or failure of a scheme. When there is no one to listen, loquacity itself will grow economical of breath.

The world is quite right in its tacit protest against over-talk. A great deal of empty, irrelevant speech is liable to be imposed upon the good nature of society in the garb of instructive conversation. It is weary to listen by the hour to men or women who principally teach you their own opinion of their own erudition. But woe to the world if its haste and greed should ever be such that the true teacher should want an audience, the long lessons of philosophy find interpreters, but no pupils.

The present is, on the whole, an encyclopedic, cosmopolitan era. I suppose that it succeeds as a reaction to one of more special and isolated endeavor. The example and influence of Goethe have had much to do with the formation of the ideas of culture which have been prevalent in our time. This wonderful man went, with such a happy tact, from one thing to another. In poetry he did so much, in high criticism, so much, in science, so much, and in world-wisdom so much! How naturally were the lovers of study, who made him their model, led to undertake as he did, to render the most eminent service, to attain the highest honors in a dozen different departments!

But the man Goethe was more wonderful, even, than his writings. His individuality was too powerful to suffer loss through the variety of his pursuits. He could be at once a courtier and a philosopher, a poet and a scientist, a critic of morals and a man of the world, and in all things remain himself.

I sometimes wonder why we Americans are so apt to show, in our conduct and remarks, an undue preponderance of what the phrenologists term love of approbation. This is an amiable and useful trait in human nature, which may degenerate into a weak and cowardly vanity, or even into a malignant selfishness. To desire the approbation which can enlighten us as to the merits of what we have done, or attempted, is wise as well as graceful. To make constant laudation a prominent object in any life is a capital mistake in its ordering. To prefer the praise of men to the justification of conscience, is at once cowardly and criminal. I observe these three phases in American life. I value the first, compassionate the second, and reprobate the third. Surely, if there is any virtue which a republican people is bound to show, it is that self-respect which is the only true majesty, and which can afford to be as generous and gracious as majesty should be.

It is, perhaps, natural that many of us should, through a want of experience, mistake the stand-point of people conspicuous in the older European society as greatly superior to our own. We can learn much, indeed, from the observation of such a standpoint; but, in order to do so, we must hold fast our own plain, honest judgment, as we derive it from education, inheritance, and natural ability.

It must, I should think, be very tedious and very surprising to Europeans to hear Americans complain of being so young, so crude,

so immature. This is not according to nature. Imagine a nursery full of babies who should bewail the fact of their infancy. Any one who should hear such a complaint would cry out, "Why, that's the best thing about you. You have the newness, the promise, the unwasted vigor of childhood, — gifts so great that Christ enjoined it upon holy men to recover, if they had lost them."

If our society is young, its motto should be the saying of Saint Paul to Timothy, "Let no man despise thy youth." The great men of our early history deserve to rank with the ripest products of civilization. Was Washington crude? Was Franklin raw? Were Jay, Jefferson, and Hamilton immature? The authorities of the older world bowed down to them, and did them homage. The Republicans of France laid the key of the bastile at the feet of Washington. Franklin was honored and admired in the court circle of Louis XVI. There was a twofold reason for this. These men represented the power and vigor of our youth; but our youth itself represented the eternal principles of truth and justice, for whose application the world had waited long. And thinking people saw in us the dignity of that right upon which we had founded our hope and belief as a nation.

I will instance a single event of which I heard much during my last visit in Rome. A German, naturalized in America, and who had made a large fortune by a railroad contract in South America, had purchased from some European government the title of "Count." He was betrothed to the sister-in-law of a well-known California millionaire, whose wife has been for some years a resident of Paris, where her silver, her diamonds, and her costly entertainments are matters of general remark. All of these parties are Roman Catholics. The wedding took place in Rome, and was signalized by a festival, at which twelve horses belonging to the bridegroom, were ridden in a race, whose prizes were bestowed by the hand of the bride. The invitations for this occasion were largely distributed by a monsignor of the Romish Church, and the king of Italy honored the newly married pair by his presence.

Not long after this, I read in the Italian papers that this very count had become a candidate for a seat in the Italian Parliament. I suppose that money will assist an election as much in Italy, as elsewhere. The monsignor who interested himself so efficiently about the invitations for the wedding party, was none other than the master of ceremonies of Pope Leo XIII. He would, no doubt,

have taken even greater interest in the return of his friend to the Parliament. I do not know whether this gentleman has ever succeeded in usurping the place of a representative of the Italian people; but the chance of his being able to do so lay in the American gold of which he had become possessed. Here is one instance of the direct relations between Rome and America which Americans so placidly overlook.

In this day of the world, hope is so strong, and the desire for an improved condition so prevalent, that much may be looked for in Europe as the result of the legitimate action and influence of America. But, if American capital busies itself with upholding the shams of the old world, if American taste and talent are led and pledged to work with the reactionary agents everywhere against the enfranchisement of the human race, where shall the hope of the world find refuge?

Goldsmith has a touching picture of the emigrants who, in his time, were compelled to leave the country which would not feed them, for a distant bourne, which could, by no means, be to them a home. But let us assist at the embarkation of another group of exiles. These people have been living abroad, and are about to return home. The rich, beautiful land whose discovery has changed the fortunes of the human race, invites them on the other side of the Atlantic. The flag which represents the noblest chapter of modern history waves over them.

From dynastic, aristocratic Europe, they go to inherit the work of an ancestry, heroic in thought and action. They go to the land which still boasts a Longfellow, a Whittier, an Emerson, a Harriet Beecher Stowe. Are they glad? Are they happy? No. They have learned the follies of the Old World, not its wisdom. They are not going home, they are going into exile.

Let us look a little at their record in the Europe which they regret so passionately. They went abroad with money, and the education which it commands, with leisure and health. What good deeds may they not have done! What gratifying remembrance may they have left behind them! Shall we not find them recorded as donors to many a noble charity, as students in many a lofty school? We shall, indeed, sometimes. But, in many cases, we shall hear only of their fine clothes and expensive entertainments, with possible mortifying anecdotes of their fast behavior.

If the mother leaves a daughter behind her, it is likely to be as

the wife of some needy European nobleman, who despises all that she is bound to hold dear, and is proud not to know that which it should be her glory to understand.

I said at Concord, and I say it today, that the press is much affected by the money debauch of the period. Let us examine the way in which this result is likely to be brought about.

A newspaper or periodical is almost always an investment in which the idea of gain is very prominent. This expectation may either regard what the proposed paper shall earn as a medium of information, or the profit of certain enterprises which its statements may actively promote.

Special organs are founded for special emergencies, as is a campaign sheet, or for the advocate of special reforms, like the anti-slavery "Standard" of old, and the "Woman's Journal" of today. These papers rarely repay either the money advanced for them, or the literary labor bestowed upon them.

Under the head of its earnings, the newspaper depends upon two classes of persons, viz., its advertisers and its subscribers. Either or both of these may be displeased by the emphatic mention of some certain fact, the expression of some certain opinion. "If we tell this unwelcome truth," say the managers, "we shall lose such and such subscribers. If we take this stand, some of our wealthiest advertising firms will choose another medium of communicating with the public." The other set of considerations just spoken of, the enterprises which are to be favored and promoted, may still more seriously affect the tone and action of the paper, which will thus be drawn in a twofold way to lend itself to the publication only of what it will pay to say.

The annals of journalism in this country will, no doubt, show a fair average of courageous and conscientious men among its chiefs. I am willing to believe all things and to hope all things in this direction. But I must confess that I fear all things, too, in view of a great power, whose position makes it almost an irresponsible one. And I should regard with great favor the formation of an unofficial censorship of public organs, in view, not so much of what may be published, as of what is unfairly left out of the statements and counterstatements of conflicting interests.

Of all the changes which I can chronicle, as of my own time, the change in the position of women is, perhaps, the most marked and the least anticipated by the world at large. Whatever opinions

heroic men and women may have held concerning this, from Plato's time to our own, the most enlightened periods of history have hardly given room to hope that the sex in general would ever reach the enfranchisement which it enjoys today. I date the assurance of its freedom from the hour in which the first university received women graduates upon the terms accorded to pupils of the opposite sex. For education keeps the key of life, and a liberal education insures the first conditions of freedom, viz., adequate knowledge and accustomed thought. This first and greatest step gained, the gate of professional knowledge and experience quickly opened, and that of political enfranchisement stands already ajar. The battle can have but one result, and it has been fought, with chivalrous temper and determination, not by one sex against the other, but by the very gospel of fairness and justice against the intrenched might of selfish passion, inertia, and prejudice. Equal conditions of life will lift the whole level of society, which is so entirely one body that the lifting or lowering of one half lifts or lowers the other half. This change, which in the end appeared to come suddenly, has been prepared by such gradual tentatives, by such long and sound labor that we need not fear to lose sight of it in any sudden collapse. There are women of my age, and women of earlier generations, who have borne it in their hearts all their lives through, who have prayed and worked for it, without rest and without discouragement. Horace Mann was its apostle, Theodore Parker was its prophet, Margaret Fuller, Lucy Stone, and a host of wise and true-hearted women, whom the time would fail me to name, have been its female saints. It was in nature; they have brought it into life; even as Christ said, "My Father worketh hitherto, and I work." The slender thread which crossed the dark abyss of difficulty was not the silken spinning of vanity, nor the cobweb fibre of madness. From the faith of pure hearts the steadfast links were wrought, and the great chasm is spanned, and is ready to become the strong and sure highway of hope, for this nation, and for the nations of the earth.

The customs of society prescribe the mental garb and gait proper to those who desire the favorable notice of their peers in their own time. As these are partly matters of tradition and inheritance, we can learn something of the merits and demerits of a generation by studying the habits of familiar judgment which it hands down to its successor. A narrow, ill-educated generation leaves behind it

corresponding garments of rule and prescription, to which the next generation must, for a time, accommodate itself, because a custom or a fashion is not made in a day. The rulers of society seem often more occupied in dwarfing the mind to suit the custom, than in enlarging the custom so as to fit it to the growth of mind. The most dangerous rebellions, individual and social, are natural revolts against the small tyranny which perpetuates the insufficiency of the past.

The copper shoes which so cramp the foot of a female infant, in China, as to destroy its power of growth, are not more cruel or deleterious than are the habits of unreflecting prejudice which compress the growth of human minds until they, too, lose their native power of expansion, and the idol Prejudice is enthroned and worshipped by those on whom it has imposed its own deformity as the standard of truth and beauty.

The heavy tasks which nature imposes upon women leave them less at leisure than men to reform and readjust these inherited garments. The necessity for prompt and early action obliges them to follow the intuitive faculties, as all must do who have not time to work out the problems of the reasoning ones. The instinct of possession is a ruling one in human nature, and a woman inheriting a superstition, or a prejudice, holds fast to it because it is something, and she has got it. It seems to her a possession. It may be a mischievous and unfortunate one, but it will take a good deal of time and thought to find that out. Those who have the training of women's minds often train them away from such a use of time and from such a labor of thought. Hence, the fatal persistence of large classes of women in superstitions which the thinking world has outgrown, and the equally fatal zeal with which they impose the same insufficient modes of judgment upon their children.

I pray this generation of women, which has seen such enlargements of the old narrow order regarding the sex, I pray it to deserve its high post as guardian of the future. Let it bequeath to its posterity a noble standard of womanhood, free, pure, and, above all, laborious.

The standard of manhood really derives from that of womanhood, and not *vice versa*, as many imagine. However, we may receive from tradition the order of their material creation, in that of training and education, the woman's influence comes before that of the man, and outlasts it.

The figure of the infant Christ dwells always in our mind, accompanied by that of the gracious mother who gave Him to the world. Let the fact of this great gift prefigure to us the august office of woman. Hers be it also to preserve and transmit from age to age the Christian doctrine and the Christlike faith. And, in order that she may fully realize the glory and blessedness of giving, let her remember that what is worthily given to one time, is given to all time.

APPENDIX.

The Department of Education has issued the following Circular and Register: .

CIRCULAR.

We have been made familiar with the habits of plants and animals from the careful investigations which have from time to time been published,—the intelligence of animals, even, coming in for a due share of attention. One author alone contributes a book of one thousand pages upon "Mind in the Lower Animals." Recently some educators in this country have been quietly thinking that to study the natural development of a single child is worth more than a Noah's Ark full of animals. Little has been done in this study, at least little has been recorded. It is certain that a great many mothers might contribute observations of their own child's life and development, that might be at some future time invaluable to the psychologist. In this belief the Education Department of the American Social Science Association has issued the accompanying Register, and asks the parents of very young children to interest themselves in the subject,—

1. By recognizing the importance of the study of the youngest infants.

2. By observing the simplest manifestations of their life and movements.

3. By answering fully and carefully the questions asked in the Register.

4. By a careful record of the signs of development during the coming year, each observation to be verified, if possible, by other members of the family.

5. By interesting their friends in the subject and forwarding the results to the Secretary.

6. Above all, by *perseverance* and exactness in recording these observations.

From the records of many thousand observers in the next few years it is believed that important facts will be gathered of great value to the educator and to the psychologist.

FIRST SERIES.

REGISTER OF PHYSICAL AND MENTAL

Development of (Give the Baby's full name.).....

Name and occupation of the father?.....

Place and time of father's birth?.....

" " mother's " ?.....

" " baby's " ?.....

Baby's weight at birth?..... at 3 months?.....

" " 6 months?..... at 1 year?.....

Is baby strong and healthy, or otherwise?.....

At what age did the baby exhibit consciousness, and in what manner?.....

At what age did the Baby

smile?.....

recognize its mother?.....

notice its hand?.....

follow a light with its eyes?.....

hold up its head?.....

sit alone on the floor?.....

creep?.....

stand by a chair?.....

stand alone?.....

walk alone?.....

hold a plaything when put in its hand?.....

reach out and take a plaything?.....

appear to be right or left handed?.....

notice pain, as the prick of a pin?.....

show a like or dislike in taste?.....

appear sensible to sound?.....

notice the light of a window or turn towards it?.....

fear the heat from stove or grate?.....

speak, and what did it say?.....

How many words could it say

at 1 year?..... at 18 months?..... at 2 years?.....

Will the mother have the kindness to carefully answer as many as possible of these questions and return this circular, before July 15th, 1881, to

MRS. EMILY TALBOT,

Secretary of the Education Department of the American Social Science Association,

66 Marlborough Street, Boston, Mass.

Boston, March 1, 1881.

In connection with the inquiry indicated above, the following letter from Dr. Preyer, of Prussia, addressed to Mrs. Talbot, will be found of interest.

DR. PREYER TO MRS. TALBOT.

Jena, 22d November, 1880.

Dear Madam:

It has given me much pleasure to read your letter and the extract of a paper of mine on "psychogenesis," or "the growth of volition, intellect, etc., in infants," and I readily comply with your wish to have this paper sent off without delay. You will find it reprinted in the book accompanying this letter, p. 199–237. I am about to publish an extensive work on the same subject, which is to contain all my observations and a careful analysis of the phenomena which the development of the faculty of speech presents. This book is to be printed next year. I am sorry to say that a reliable investigator of the whole subject is not known to me. Your newspaper seems to be right in calling the field "as yet almost unbroken." Professor Kussmaul's "*Seelenleben des neugeborenen Menschen*" (Leipzig and Heidleberg, 1859), and Mr. C. Darwin's biographical sketch of an infant, contain some good observations, but both are very short. Many excellent remarks on infants and very young children I find in Mr. C. Darwin's book, "On the Expression of the Emotions." The German books on the subject, although numerous, are nearly worthless; many are sentimental, giving no facts, or, what is worse, false statements. B. Sigismund's "*Kind und Welt*" (1851) is an exception.

The case you mention, of a child of eleven months expressing its wishes and inducing the nurse to comply with them, cannot be definitely looked at as a case of self-consciousness, but only of consciousness. This is one of the most intricate questions to decide, —*when* the child distinguishes its own body, head, hands, etc.,

EDITED BY

F. B. SANBORN,

GENERAL SECRETARY OF THE ASSOCIATION,

CONCORD, MASSACHUSETTS.

Boston:
Wright & Potter Printing Company,
No. 18 Post Office Square.

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* The Paper of Dr. Jacobi was received too late and found too long for insertion in this Number. It will appear, with the Papers of the Education and Social Economy Departments, in No. XV of the Journal, to be published in January, 1882.

THE SARATOGA MEETING OF 1881.

The present number of the Journal contains about half of the Papers read before the Association at the General Meeting of 1881, in Saratoga. The Papers selected have been chiefly those of the Jurisprudence and Health Departments, as will appear from the following list of all the Papers. The others will appear in No. XV. of the Journal.

ORDER OF BUSINESS AT THE SARATOGA MEETING.

I. In General Session.

Monday, Sept. 5. At 8 P.M., Opening Address of the President of the Association, Prof. Wayland; at 9.30 P.M., Reception of members and guests at the United States Hotel.

Tuesday, Sept. 6. At 9 A M., Report of the General Secretary, F. B. Sanborn; at 8 P.M., a Paper by Charles Dudley Warner, Esq., of Hartford, Conn., on *American Journalism.*

Wednesday, Sept. 7. At 4 P.M., a Special Session to hear a Paper by Robert P. Porter, Esq , of the Census Bureau, on *The Public Debts of the United States;* at 8 P.M., Election of Officers; at 8.30 P.M , a Paper on *The Moral Treatment of Incipient Insanity*, by Dr. Mary Putnam Jacobi, of New York, followed by a Debate.

Thursday, Sept. 8. At 8 P.M., an Address by George William Curtis, Esq., of New York, on *Civil Service Reform in America.*

II. Department Meetings.

Department of Education.

Tuesday, Sept. 6. At 10 A.M., Address by the Chairman of the Department, Prof. W. T. Harris, of Concord, Mass.; at 11 A.M., a Report by the Secretary, Mrs. Emily Talbot, on the *Work of the Department*, including letters on *Infant Development*, by Messrs. Charles Darwin and A. Bronson Alcott; at 12 M., a paper by Gen. John Eaton, on questions of *Education in the Southern States*, followed by a Debate; at 1 P.M , a Paper by Professor G. S. Hall, of Cambridge, Mass., on *The Religious Training of Children;* at 4 P.M., a Paper on the *Education of the Deaf*, by Dr. Edward M. Gallaudet, of Washington, D. C.

Department of Health.

Wednesday, Sept. 7. At 9 30 A.M., an Address by the Chairman of the Department, Walter Channing, M.D., of Boston, followed by a Debate; at 11 A.M., a Paper on *The Practice of Medicine by Women in the United States*, by Dr. Emily F. Pope, of Boston, followed by a Debate.

Department of Jurisprudence.

Thursday, Sept. 8. At 10 A.M., a Debate on the *Temperance Question*. Hon. P. Emory Aldrich, of Worcester, Mass., advocated *Prohibitory Legislation;* at 10.30 A.M., Rev. Leonard W. Bacon, of Norwich, Conn., advocated a *License Law;* at 11 A.M., Hon. F. W. Bird, of Walpole, Mass., discussed *The Province of Legislation;* at 11 30 A.M., a Paper on *Divorce*, by Prof. W. C. Robinson, LL.D., of the Yale Law School; at 12 M., a Paper on *The Effect of Lax Divorce Legislation on the Stability of American Institutions*, by Rev. Samuel W. Dike, of Royalston, Vt.; at 12.45 P.M., a Paper on *The Difficulty of Obtaining the Moral Statistics of the United States*, by Ex-President T. D. Woolsey, D.D., LL.D., of New Haven.

Department of Social Economy.

Friday, Sept. 9. At 10 A.M., Address by the Chairman of the Department; at 10.30 A.M., Remarks by Prof. A. G. Bell, on *The Use of Articulation and of Signs in Teaching the Deaf;* at 11 A.M., Reports from a Special Committee on *Homes for the People*, by Robert Treat Paine, Jr., Esq., of Boston, Addison B. Burk, Esq., of Philadelphia, and John Hitz, Esq., of Washington; at 12.30 P.M., Report from a Special Committee on *Art in its Relation to the People*, written by Martin Brimmer, Esq., of Boston; at 1 P.M., a Paper by W. F. Ford, Esq , of New York, on *Municipal Bonds.*

The officers elected at Saratoga were those whose names are printed on page v of the Appendix. At the same time the Committees of the five Departments were appointed as they stand on page vi of the Appendix.

Among the communications received at Saratoga, was one from Madame Elise Von Koerber, of Montreal, Canada, enclosing a Paper on the Protection of Female Immigrants, which she desired the Secretary to submit to the Association, and which was so submitted, and in part read.

The Secretary also read from the letter of Madame Von Koerber at the general session of Tuesday morning, September 6, as follows: —

1428 St. Catherine Street, Montreal, August 30, 1881.

Dear Sir, — I could not express to you sufficiently how great a pleasure and honor it would be for me to accept of your kind invitation and be present at the meeting of your Association in Saratoga. Unfortunately, I have a meeting of my own to attend and address on the 8th of September, and dare not retard it.

The accompanying pamphlet shows you how far I have succeeded, up to the present time, in the "Organization and Protection of Female Immigration," under which we may safely encourage the emigration of the surplus of women from Europe. For various reasons I would now like to place it on an *international basis*, as originally intended; the principal one being, however, that the Crown Princess of Germany will then be in a position to place herself at the head of the movement, which she would like to do, but has been prevented hitherto, owing to the work having had too pronouncedly the character of a Canadian enterprise. I should like therefore to know if the work might be completed under the auspices of the American Social Science Association, since the question enters into political economy as well as social humanity.

It would, of course, be a question of support also. I should, then, be much gratified to hear that you will make it possible that the question be brought before the meeting.

I may add that the propositions marked in the accompanying pamphlet have been laid before Bismarck by the Foreign Office in Berlin, who makes no objection to the introduction of all or any of those points which, after due discussion, will be found acceptable; such as they are, they comprise and cover every point necessary for a thorough control, and are based upon studies of several years' duration.

Baron Theodore von Bunsen, who has become the representative of the question, started by me, has, last autumn, at a conference of the Lette-Unions in Berlin, openly advocated the emigration of women, — a great and important step for Germany.

* * * * * * * * *

The subject was discussed on Tuesday and again on Wednesday, but it did not seem advisable that the Association should take any active measures in regard to the matter, until more should be known respecting the organization spoken of by Madame Von Koerber. The following resolution was adopted on Wednesday evening: —

Resolved, — That this Association regards with favor all measures calculated to promote emigration from Europe to America, and especially all measures tending to remove the existing disparity of the sexes in emigration, and to distribute the immigrants more equally throughout the whole country.

The following resolutions were also passed during the Saratoga meeting: —

1. On motion of Rev. J. H. Jones, of Schroon Lake, New York: "That the Committee on Social Economy is hereby requested to procure the presentation, at our next annual meeting, of a paper in behalf of a uniform system of ten hours as a day's work for

women, and for minors under eighteen years of age, in all factories, whether textile or otherwise, in all the manufacturing districts of the land."

2. On motion of Mr. F. B. Sanborn: "That the communication of Mr. W. P. Fiero, of New York, be referred to the Committee of the Jurisprudence Department, with instructions to consider the expediency of a uniform prison system for prisoners brought before the Federal courts of the United States."

3. On motion of Rev. H. L. Wayland, D.D., of Philadelphia: "That the Committee on Education be requested to consider the subject of providing for an adequate presentation of the Spelling Reform, and that the Executive Officers be requested to consider the propriety of adopting the five modifications in spelling recommended by the American Philological Society, in printing the Annual Report of the Association."

The report of the Treasurer of the Association was submitted to an auditing committee, consisting of J. R. Taylor, of Brooklyn, N. Y., LeRoy Parker, Flint, Mich., and G. W. Curtis, New York, and was reported back to the General Session of Wednesday evening, September 7, as correct. It is as follows: —

F. J. KINGSBURY, TREASURER, *in account with the* SOCIAL SCIENCE ASSOCIATION.

DR.

Balance from H. A. Hill, Treasurer,	$80 96
To Publication Fund; viz.: A. S. Hewitt, $50; D. F. Appleton, $25; W. B. Rogers, $25; S. S. Green, $10; E. R. Potter, $10; W. W. Phelps, $50; R. T. Paine, Jr., $25; D. B. Eaton, $25; D. A. Wells, $25; H. W. Farnam, $10; F. Billings, $5; R. C. Winthrop, $10; F. B. Thurber, $5; James Neilson, $5; W. H. Davis, $2; F. J. Kingsbury, $25; J. S. Clarke, $15, —	322 00
H. A. Homes, for report,	1 00
To correct error in account,	2 78
Members' fees,	1,505 00
Publications sold,	40 66
	$1,952 40

SYNOPSIS OF PAYMENTS.

F. B. Sanborn (salary),	$428 29	
Convention of 1880,	150 50	
Tolman and White (printing),	945 13	
Miscellaneous printing,	13 50	
Postage, expressage, etc.,	62 25	
Special clerk hire,	16 25	
Total,		1,615 92
Balance on hand September 1, 1881,		$336 48

F. J. KINGSBURY, *Treasurer.*

The list of officers printed on page v of the Appendix was reported on Wednesday evening, September 7, by a Nominating Committee, consisting of Robert P. Porter, of Washington, D. C., F. W. Bird, of Walpole, Mass., and Mrs. C. T. Leonard, of Springfield, Mass.

The officers were unanimously chosen, and the name of Charles Darwin, Esq., was added to the list of Corresponding Members.

On Friday, September 9, 1881, the general meeting adjourned, to assemble in Saratoga again in September, 1882.

The proceedings of the Association during the Saratoga meeting, and since, respecting the late President Garfield, should be specially mentioned. At the time of the meeting occurred the successful removal of the wounded President from the White House to the sea-shore of New Jersey, and hope for his recovery was re-awakened. On Thursday, September 8, which was the day appointed by the Governor of New York for united prayer in behalf of the President, Rev. Dr. George B. Cheever, by special invitation of the presiding officer, opened the session with appropriate reading of the Scriptures and prayer for President Garfield and the country. A resolution offered by Rev. Dr. Wayland, of Philadelphia, was also passed, as follows: —

Resolved, That the members of this Association desire hereby to express their deep abhorrence of the attempt on the life of President Garfield, whose pure private and public character is an example and an inspiration to the nation; and that we unite with the millions of our countrymen, and with the civilized world, in the hope and the prayer that Almighty God will spare his life and continue him in the exercise of his great office.

Soon after the lamented death of the President, the following letter was received and briefly answered by Professor Wayland: —

National Association for the Promotion of Social Science,
London, 1 Adam Street, Adelphi, W. C., September 23d, 1881.

My Dear Sir: — I am requested by the Council of this Association to convey, through you, to our sister Association in the United States, their deep sympathy with all your members, as with the citizens of your Republic at large, in the terrible loss you have sustained by the death of its late President, General Garfield.

Our Council, like other Englishmen, feel a profound admiration for the character of that illustrious man. His patriotism, his integrity, his single eye for the good of his country, the courage and fortitude displayed by him in his mortal sickness, are all bright examples to the people of both countries of the qualities which a great and good man can display for the benefit of his fellow-creatures.

Interested as we are, by the principles of our Society, in the happiness and progress of all nations alike, we view with abhorrence the late dastardly outrages on the Rulers of civilized states, — outrages which are aimed apparently at the destruction of the common bonds of all human societies.

But, naturally, we regard with even deeper detestation the murder of your President, the freely chosen Head of a people closely united to ourselves by religion, language, race, and political institutions, and for whose future welfare and prosperity we utter our hearty prayer.

Our Council take this opportunity also of sending their good wishes to your Association, and I beg you, my dear sir, to believe me

Your faithful friend,

G. W. Hastings (M.P.)

President of the Council of the English Social Science Association.

Professor Francis Wayland,
President of the American Social Science Association,
New Haven, Conn.

To this letter the following reply was sent.

American Social Science Association,
New Haven, Conn., Oct. 13, 1881.

My Dear Sir: — Permit me to acknowledge, with profound gratitude, the receipt of your letter of sympathy and condolence.

While, day by day, the irreparable loss which we have sustained in the untimely death of President Garfield is more and more deeply impressed upon the heart of the Nation, the generous estimate of his rare statesmanship, his patient fortitude, and his Christian heroism, so universally expressed by individuals and representative bodies in other countries, is more and more keenly appreciated.

Especially gratifying to us as an Association, has been the manifestation of high esteem and affectionate regard on the part of our sister Association in Great Britain, so courteously conveyed in your recent communication.

I have the honor to remain, my dear sir,

Very sincerely yours,

Francis Wayland,
President of the American Social Science Association.

To George W. Hastings, M.P., Esq., *President of the Council of the British Social Science Association, London, Eng.*

At a meeting of the Executive Committee in Boston, October 25, 1881, the President of the Association submitted the above correspondence, and by direction of the Committee, on motion of Mr. Hamilton A. Hill, of Boston, the President and Secretary were authorized to return the following answer: —

American Social Science Association,
Boston, October 25, 1881.

By direction of the Executive Committee, at a meeting held this day, and in the name of the Council of this Association, the undersigned have the honor to respond to the letter which you have written, in the name of

the British Social Science Association, concerning the signal calamity that has fallen on the American people in the death of its chief magistrate, President Garfield. It was an event doubly painful in its occasion and its circumstances; for the crime of assassination where a ruler is the victim, which in all governments is atrocious, and in free governments infamous, becomes, by the nature of the American Constitution, peculiarly heinous and causeless. If Social Science teaches anything in matters of public policy, it is this, that existing evils ought to be remedied by natural and not by violent means; and what evil can be so great as a forcible change in the head of a popular government? But in the case of our President no evil existed, or was even alleged. His administration had been short but beneficent; and promised to be salutary in all its relations to the people who had called it into being. That it was acceptable to them has been witnessed by their universal grief and indignation at the tragedy which closed it, and at the same time brought to an end the career of a true American who was also a remarkable example of what American institutions signify.

The sorrow of our Association is deepened by the fact that President Garfield had been for years one of its members, had taken part in its meetings, and had supported strenuously the principles and measures with which our organization has been identified. We have never seen, nor can we soon hope to see again, the elevated position of the Presidency held by one so completely in unison with the aims and methods of Social Science as General Garfield had shown himself for years before he became President. In him we have lost our most illustrious associate, at the time of all others when he could most usefully have put in practice the teachings of Social Science in affairs of public concern.

Yet this bereavement finds some consolation in the affecting spectacle which the world has seen, of the whole human family touched by a common sense of brotherhood in this more than national affliction. Has not this manifestation of international sympathy brought nearer to reality than ever before that stately vision of your poet-laureate, —

"Of the Parliament of man, the Federation of the world?"

May the day speedily come when this shall be something more than a vision, or a momentary existence! when that unity in diversity which has been the national aim of the United States, as of your United Kingdom, shall show itself in the political relations of the whole world. This we esteem to be the best result of Social Science, as your Association and ours pursue it.

With much respect,

FRANCIS WAYLAND, *President.*
F. B. SANBORN, *Secretary.*

OPENING ADDRESS

BEFORE THE

AMERICAN SOCIAL SCIENCE ASSOCIATION,

ON CERTAIN DEFECTS IN OUR METHOD OF MAKING LAWS.

DELIVERED MONDAY EVENING, SEPTEMBER 5,

By FRANCIS WAYLAND, *Professor in Yale Law School*,

President of the Association.

It is one of the unwritten laws of this Association that the Secretary, in his Annual Report, shall endeavor to satisfy the chronic demand for a definition of Social Science and present a summary of what it has achieved or attempted during the previous year. As you are all aware, this Report, (including the much desired definition), has come to be considered one of the most interesting features of our proceedings, and has awakened the general wish that our accomplished Secretary may retain his office for life, or "during good behavior."

An incidental result of this accepted arrangement is that the President in selecting the theme of his opening address is limited only by the range of subjects within the domain of Social Science, as defined or to be defined, to-morrow, by the Secretary. Permit me, therefore, without further preface, to invite your attention to a few observations on certain defects in our methods of law-making, and a brief survey of some suggested remedies.

"Each individual of the Society," say the Massachusetts Bill of Rights, "has a right to be protected by it in the enjoyment

of his life, liberty and property, according to standing laws." The enactment of these "standing laws" is the province of our Legislatures, State and National.

In what I have to say this evening, I shall confine myself to State Legislatures and to Public Laws. Let us then examine, from this point of view, what may be called the machinery of law-making. Without pausing to comment on the grave importance of the duty which they undertake, let us inquire who our Legislators are; how they are organized for work; and how that work is performed.

Our Legislators, then, consist of those citizens who, having been nominated in "primary meetings," have been elected to represent certain designated constituencies in the General Assembly. It is needless to remark that, with rare exceptions, party lines are strictly drawn, and that where the contest threatens to be close, availability is almost the only qualification which is seriously considered. That availability in the nominee is not always equivalent to capacity in the Legislator has not escaped the notice of acute observers Even when the dominant party can command a majority so large as to make the struggle obviously hopeless, instances have been known in which the most competent candidate was not selected. But why linger over this stage of the inquiry? The more one thinks of it, the more one comes to believe that the broadest satire cannot caricature the whole business. More than a century and a-half ago, a wise man said: "I care not who makes the laws of a nation if I can make its ballads." To-day, we, the free and independent voters at State elections, practically adopt as our own the first part of this declaration, and ignore the proviso.

The process of organization is not complicated. A speaker invented by a caucus and elected by a party vote, presides over the deliberations of the Assembly. His first duty is the appointment of committees. Perhaps the most important of these, as the one to which all proposals for Public Laws are referred, is the Judiciary Committee. To be its chairman, is usually to occupy the post of honor in the House after the Speaker. It seems to be generally conceded that he must belong to the dominant party. Unfitness for the place is no disqualification if the majority have no better candidate to offer. Peculiar fitness for the place counts for nothing if found in the ranks of the minority. In some States,

custom still further limits the selection by assigning to the chairman of the Judiciary Committee the task of leading his party on the floor of the House. Where this is the rule, the fluent talker easily outranks the sound thinker. The jurist gives place to the juggler. The chief of wire-pullers becomes the chief of law-makers. I must be pardoned for saying that only one precisely parallel case occurs to me. It is that game at cards, of late, I am told, somewhat in disrepute, in which the knave of trumps is stronger than the ace. Fortunately, however, it is only in a very few States that this dual responsibility devolves upon a single member. The remainder of the Committee will represent fairly enough the legal talent of the House, after deducting such lawyers as are appointed to preside over other important committees, and after making the further reserve that the majority of the members must belong to the party in power. It is worthy of remark that it rarely happens that the Judiciary Committee does not include men who are legislators for the first time. Frequently, the larger proportion, though perhaps not without some general legislative experience, are novices in the science of framing laws.

The organization of the Senate Committee does not materially differ from that of the House.

We are now prepared to consider the manner in which the duty of Judiciary Committees is discharged. During the early part of the session the committees are idle. Petitions and Bills are being presented and referred, and action upon them is postponed until a considerable number has accumulated. Indeed, it is not unusual to delay action until the time has expired within which new matter can be brought forward.

The facilities of travel, the thoughtful liberality of railroad corporations, the demands of private business, and the temptations of home, combine to reduce the actual legislative days to three or, at the most, four in each week. The Committee work is supposed to consume those hours which are not spent in general session. This is the theoretical view. In point of fact, the time devoted to the consideration of Public Laws is ludicrously small when measured by the magnitude of the interests involved. In one of our leading States, not more than one hundred hours of committee work were given to more than three hundred Bills. In another, about one hundred and twenty hours to more than two hundred and twenty Bills. Of course, some of these Bills were

foolish, some frivolous, some impracticable, but not one of them could properly be rejected without sufficient examination to ascertain its intent and scope, while a considerable number demanded careful study. In not a few instances, a Bill was urged and opposed by leading counsel, the evidence and arguments occupying the time of the Committees for several days. If any one of these Bills received the attention which it merited, others, equally important, must have been slighted.

How the work is done, how the Bills which are to be favorably reported are finally prepared for presentation to the larger body, cannot be told without disclosing the secrets of the committee room. That some Bills are drawn by members of experience conscientiously determined to do their duty, some by new members anxious to try their "prentice hands" at law-making, some by the counsel who have advocated their acceptance—so much as this is known or can be known by the public.

But, by and by it begins to be realized that the day agreed upon for adjournment is near at hand. Members grow impatient of delay. One wishes to return to his farm, another to his merchandize, another to his clients, another to his patients. And the Judiciary Committees find their work but half completed. Their tables are covered with matters which demand close attention. There are Bills to be framed based on petitions; imperfect Bills for which substitutes must be drawn, Bills requiring material amendments, doubtful Bills, Bills which in all probability ought to be rejected, Bills which it is feared must be continued. How, under these circumstances, the tables are cleared is not generally reported. We hear the groans of disappointed petitioners; we see the smiles of successful counsel. Something is said of the "Slaughter of the Innocents"; something is hinted of amusing blunders—and all is over.

Meanwhile, what is often transpiring on the floor of the House in the last few hours, is notorious, and therefore need not be related here. The newspapers of the day tell the sad story of disorder and — worse. Let that suffice. For us, it is far better to

> "Walk backward with averted gaze
> And hide the shame."

Enough that citizens receive with a sigh of relief the report of final adjournment, and that, for a few months, a feeling of comparative security pervades the public mind.

Now who is to blame for all this confusion and chaos? Certainly not the Committees, mainly or largely. The fact is, they are expected to do what it is simply impossible for them to do well. Of the Committee some are without experience, and a few, we fear, habitually neglect their duties. The greater part of the labor is really performed by two or three earnest men, who return to their homes with bodies exhausted and intellects enfeebled by the severe and constant strain. What wonder that many mistakes are made when the efforts of a few hurried weeks are directed to the framing for the coming twelve months of the Public laws for an entire commonwealth. The only marvel is that the work is done so well.

But this is not all; there are other reasons for the unsatisfactory results of legislative labors. The case would be bad enough if the law-makers had no other duties to discharge. We have thus far made no allusion to political complications. Consider now, for a moment, the effect of an exciting Senatorial election, for example, on the calm frame of mind so essential to prudent and conservative legislation. Not very long ago, while the choice of a United States Senator was pending before the General Assembly of a neighboring State, ten weeks elapsed before a single important measure passed to be enacted. The recent legislative annals of New York might furnish us with an instructive example of the same kind.

Bear in mind, also, that there is always the duty of attending the general sessions of the Assembly, where the members must listen to dreary debates, and carefully guard the interests of their constituents. Indeed, the price of re-election is eternal vigilance.

But, perhaps enough has been said to set forth and explain some causes of the defects in our system of law-making. It remains to emphasize my meaning by a few authentic illustrations. It will be seen, I think, that ignorance and haste have borne their natural fruit.

Notwithstanding the copious supply of contemporary cases, I am tempted to refer to Colonial Records and cite a statute passed in 1771, for the protection of the public health, providing that "oysters offered for sale between May 10th, and September 1st, be forfeited for the use of the poor," — one concise and comprehensive enactment thus supplying the hungry poor with food banished, for hygienic reasons, from the tables of the rich. Nothing seems wanting to the entire success of the spurious Solon who framed

this statute, but a clause compelling the unfortunate paupers to eat the confiscated molluscs under penalty of fine or imprisonment.

I need hardly remind you of the traditional enactment, which, as rather hastily amended just before its final passage, was made to read, that for the violation of a certain statute, a fine of —— dollars should be imposed, and in case the fine were not paid, the offender should be punished with thirty lashes on the bare back; one half to go to the complainant, and the other half to the town in which the misdemeanor was committed.

Coming down to our own times, we find that public laws are frequently the offspring, pure and simple, of private pique. Every lawyer, with or without legislative experience, will readily recall instances of this abuse of the law-making power. Indeed, it has occasioned one of the proverbs which have been aptly termed the wisdom of many and the wit of one, that our statute books are composed of "public acts and private axes." A single illustration will suffice for our present purpose.

A citizen of a small town in one of our older States, having been obliged to pay what he considered exorbitant, though confessedly legal, fees for the protest of an unpaid note, resolved to be revenged not only on the individual offender, but upon the whole tribe of protesting officials within the limits of his little commonwealth. A compliant caucus and a political majority send him to the Legislature. With no motive but a petty, personal grievance, and no qualifications but a bloodless career in the militia, he enters the lists as a law-maker.

Thanks to the active assistance of a few members who had shared with him the mild excitement of the annual muster, if not the more trying ordeal of protested paper, and to the apathy of legislators who never concern themselves about bills which do not affect their own pecuniary or personal interests, he secured the passage, with indecent haste, of a law which was intended to reduce the fees of Notaries Public to a point which fully satisfied his ideas of retribution.

Fortunately for the objects of his animosity, his zeal was not according to knowledge. The bill was so clumsily drawn as to be utterly unintelligible, and was practically a dead letter. In the following session it was repealed without remonstrance, and, I believe, without debate.

There is much gratification in the thought that many legislative

enactments are born of the best intentions, but the pleasure with which we recognize a praiseworthy motive should not blind our eyes to the fact that a well-meant statute may be faulty in its phraseology, clumsy in its construction, and ludicrously vague in its application.

The following law, designed to protect bucolic inexperience from the wiles of the wicked, was enacted in a neighboring State within the lifetime of the present generation: "Any person or persons who shall by the game of three-card monte, so called, or by any other game, device, sleight of hand, pretensions to fortune-telling, trick or other means whatever, by the use of cards or other implements or instruments, obtain from any other person or persons, any property of any description, shall be punished as in the case of larceny of property." The danger to the peace of mind of timid persons who had obtained the property of others by an "instrument" known as a promissory note, and the uncertainty as to the punishment awaiting them on conviction, [the length of imprisonment in cases of larceny being regulated by the value of the property stolen], were happily removed, when, in a subsequent session, the statute was amended by inserting the word "fraudulently" before the word "obtain," and by making the closing clause to read "larceny of property of like value."

When an attempt to remove alleged abuses is tainted with partizanship we need not be surprised at reckless legislation. The command of the requisite number of votes, under a vigorous application of a party whip, will often tempt legislators to commit acts of folly of which in their cooler moments they are heartily ashamed, and which are even regretted, let us hope, by many of the professional gentlemen to whom they furnish the "fat contention and the flowing fee."

Within a few years, in one of the original thirteen States, an Act was passed, one section of which repealed a former Act, and abolished a board of officers appointed under it, while another section of the same Act created a new board, clothed with precisely the powers enumerated in the Act which had been repealed by the first section. The admitted object of this proceeding was to remove certain officials who were obnoxious to the dominant party in the Legislature, and to secure the appointment of other officials in political sympathy with the majority. It is but fair to add that the persons at whom this hostile action was aimed were charged with

grave official misconduct, and that, in the opinion of many, their removal by legitimate methods would have been hailed with a satisfaction by no means confined to the majority.

Instructed by competent counsel, the old board refused to retire, and held their ground against the new comers. Then followed the various complications which invariably attend a case of contested jurisdiction, aggravated by partizan bitterness, and only prevented from becoming serious by that underlying element of sturdy common sense, and that love of order which characterize Anglo-Saxon communities.

When the question reached the Court of last resort, this precious piece of legislation was promptly decided to be null and void on the very obvious ground that there must be some appreciable period of time between the repealing Act and the re-enactment of the same statute, and that it is impossible to kill and make alive at the same instant. The author of this legislative curiosity, if an active and pushing politician, need not despair of being one day promoted to the chairmanship of a judiciary committee.

Perhaps no better illustration can be given of the want of deliberation in a deliberative assembly, than a constitutional amendment adopted by two successive Legislatures, designed to extend the right of suffrage by abolishing the registry tax as a qualification for voting. If this amendment, as framed, had been formally accepted by the people, no citizen would thereafter have been entitled to a vote who was not a property holder, and had not paid a tax assessed upon his property.

And what shall we say of an Act passed one day and amended the next; of an Act passed and amended in the same day; of precisely the same Act passed twice in the same session; of thirty-eight "dog laws" enacted in the same State during a period of forty consecutive years; of an Act twice repealed; of an Act amending an Act which had long since been repealed; of several abortive repealing acts, appropriately indexed as "attempts to repeal," etc.; of six Acts passed in a single session and repealed in the next session as palpably unconstitutional; of a general corporation law placing no check on the objects for which corporations could be organized; of two independent statutes setting forth the same (and a very heinous) offence; and prescribing different penalties, and this blunder perpetuated in the Revision of the Laws; of an important section of a general Banking Law, so framed as to

be absolute nonsense, and re-enacted in the revision without changing a word.

I need not detain you with references in detail to the countless instances of experimental legislation—"tentative acts" as they are sometimes called—crude, ill digested, visionary, quixotic, of which a large proportion are speedily set aside as unconstitutional, or are wholly inoperative from hopeless obscurity of statement. Painfully conclusive on this point is the history of legislation during the past quarter of a century, on temperance, gambling, divorce, taxation, education, and kindred subjects.

As might be anticipated, flagrant instances of faulty legislation are to be found in Territorial Statute books. Many of them indicate vague purposes of reform with rather nebulous notions of the true province of the law-maker. In reading them, it is not difficult to discover impatience of technical rules, an indifference to precedent characteristic of life on the frontier, with occasionally an exaggerated imitation of those forms and phrases which may be called the cant of legislation.

The following section of a Statute was obviously intended to secure the production in Courts of Justice of the "truth, the whole truth and nothing but the truth": "Any attorney or person otherwise assuming to appear before any Court in this Territory, in any cause whatever, shall present all the facts in the case, whether they are calculated to make against his client or not, of which he is in possession, and shall present the best evidence that he can in the case, to the intent that the true state of the case in litigation may be presented before the Court, and for a failure to do so or to comply with all the requirements of this act, shall be liable to all the penalty hereinbefore provided for," &c., &c.

The following section of a Statute "punishing offences against Public Health" is certainly long for literal citation, but it cannot well be abridged, as it is composed of a single sentence. There is another and a serious reason why its fair proportions should not be curtailed. Taken as a whole and considered as a statutory provision, it seems to comprehend almost every objectionable feature which could be included in the same number of words. I therefore quote it, *verbatim et literatim et punctuatim.*—"If any doctor, physician, apothecary, or any other person, shall give, communicate, or administer, or by their influence, counsel, advice, persuasion, suggestion, or by any means whatsoever, give, or

cause to be given by themselves directly or indirectly, or through the aid or medium of any other person or persons, agency, or means whatever, any deadly poison, whether animal, mineral or vegetable, such as quicksilver, arsenic, antimony, or any mercurial, arsenical, antimonial preparations therefrom; or cicuta, deadly night shade, henbane, opium, or any of the diversified preparations therefrom; or any drugs, medicines, and other preparations, such as chloroform, ether, exhilarating gas, calculated in their nature to destroy sensibility, from any other poisonous minerals or vegetables to any citizen of the Territory of ——, whether sick or well, old or young, man, woman, or child, under pretence of curing disease, or from any real or pretended cause, influence, argument, or from any design or purpose whatsoever, without first explaining fully, definitely, critically, simply, and unequivocally, to the patient, and surrounding friends and relatives, such as father, mother, husband, wife, children, or guardian, or other as the case may be, and in plain, simple, English language, the specific nature, operation, and design of said poison, or poisonous preparation, about to be, or intended to be given, and procuring the unequivocal approval, approbation and consent of the patient, if of mature years, and sound mind, and of the parents, guardians or other friends, to the giving, administering, or communicating said poison so intended, said doctor, physician, apothecary, person or persons so administering said poison, without the full and free assent of said patient and friends, shall be adjudged guilty of a high misdemeanor, and be punishable in any sum not less than one thousand dollars, and be imprisoned or confined to hard labor for any time not less than one year; and if the death of the patient or person so receiving the poison as above specified, shall follow the taking of the same, without being made acquainted with the nature thereof, then the doctor, physician, apothecary, person or persons so giving or causing to be given said poison, shall be adjudged guilty of manslaughter or murder, as the case may be, by any Court having jurisdiction and be punished according to the law for said crimes; Provided, that the administration of poisons as specified in the forepart of this section, and the penalties thereof shall not attach to doctors, physicians and apothecaries, having their own drugs, poisons and medicines, accompanying and administering to companies and individuals traveling through the Territory; but all such doctors and companies so traveling may

administer to, and receive of their own drugs, poisons, or medicines, with good intent, on their own responsibility."

Now, grotesque as this specimen of Territorial legislation certainly is, I should not dare to assert that we cannot discover in the legislative records of some of our older communities enactments equally absurd and without the feeble excuse of good intentions.

But I must refrain from further illustration. If, however, any person or persons whatsoever, by themselves or their relatives or friends, as the case may be, such as parents, guardians, or otherwise, should conjecture, surmise, imagine, or believe — behold the effect of bad example — that I desist from want of material, I reply that although the supply is by no means exhausted, I fear that the patience of my audience may be, and that, at all events, I can devote no more time to this branch of the subject.

Before proceeding to consider what remedies, if any, can be devised for the removal of these serious defects in our law-making machinery, it may be well to glance for a moment at the methods of legislation in vogue in some other civilized nations. Although such an examination may disclose nothing precisely applicable to our necessities, we may find the survey neither uninteresting or unprofitable.

As the Parliament of Great Britain is the parent of all our Legislative Assemblies, we naturally turn first to that august body. It would demand greater space than our limits allow to make more than a passing allusion to the wide difference which exists between the legal scope of parliamentary jurisdiction and the range of subjects to which our Legislature are confined. The "Omnipotence of Parliament," resulting from the absence of any fundamental law, the artificial character of many English institutions and usages, the unsettled condition of various social problems, such as suffrage, popular education, local government, primogeniture, and the relation of the Church to the State, which with us have long ceased to be, if they ever were, open questions; these and such as these are distinctive features peculiar to British legislation.

What more immediately concerns us is the fact that the power of making laws for the United Kingdom is practically lodged in the popular branch of Parliament, composed of members chosen by ballot and representing, not unfairly, the people of Great Britain.

The House of Lords, although technically possessing the right to reject Bills passed by the lower House, rarely avails itself of this right, and does so, as a rule, only when the majority in the Commons is so small as to warrant the belief that the action of the Peers will be sustained by the nation. It becomes, then, matter of interest to ascertain what method of making laws prevails in the House of Commons.

It would certainly be reasonable to infer that the recorded experience of centuries in the labor of legislation would have impressed upon this time-honored assembly many valuable lessons. We need not be surprised if it has been discovered that something more goes to the framing of wise and efficient laws than the plodding industry of the novice, the honest zeal of the philanthropist, the headlong haste of the professional reformer, or the craft of the scheming politician: that the cheapest legislation at the outset is often the most costly in the end; that abundant scope is here presented for that skill which comes from a thorough comprehension of law as a science and not merely a familiarity with its technicalities as a trade, and long continued practice in drafting acts of Parliament, combined with patient research in the records of previous legislation.

Without pausing to trace, historically, the various steps by which the present methods of law-making have been reached, it will be sufficient to say that for a long time experienced draftsmen have been employed to prepare Bills for Public Laws to be presented by the heads of departments or by private members. In 1860, an eminent barrister* who had been frequently retained by the government as a draftsman, was appointed Counsel to the Home Office, charged with the duty of drawing all Bills belonging to this department and such other important Cabinet Bills as he could find time to prepare. For some years he had no assistance except that rendered by mere copying clerks. In 1869, his sphere of public service was enlarged on his receiving the appointment of Parliamentary Counsel.

By the courtesy of this distinguished official, I am enabled to place before you in his own words a concise statement of the duties devolving upon him in his present position.

"The greater part of the Bills which become Acts are introduced by a Minister or by Ministers belonging to the Government of the day; these

* Sir Henry Thring, K. C. B.

Government Bills, as a general rule, are prepared in the Government Office, called the Parliamentary Counsel Office. I say 'as a general rule,' because some Bills, especially consolidation Bills, e. g. the Criminal Code, are of such extent and require the continuous labor of a draftsman for so long a period as to make it impossible for the office of the Parliamentary Counsel to undertake them. These exceptional Bills are prepared under the direction of a minister by any counsel he may choose.

"The staff of the Parliamentary Counsel consists of a permanent assistant, (a barrister), and three short-hand writers. The Parliamentary Counsel is also empowered to employ, and does employ from time to time, young barristers whose duty it is to draw bills or parts of Bills under his superintendence.

"The Parliamentary Counsel has prepared rules for the construction of sentences and for the arrangement of Bills, which he requires the draftsmen whom he employs to comply with, but such rules are entirely private rules of his office, and are not even known to the Ministers who order the Bills in the drawing of which the rules are adopted.

"The Parliamentary Counsel receives instructions for a Bill from the Minister who intends to propose it to Parliament, and the details of the Bill are settled privately between the Parliamentary Counsel and the Minister.

"It should be clearly understood that the Minister alone is responsible to Parliament for the matter contained in a Bill. The Parliamentary Counsel is responsible to the Minister for the manner in which he performs his duty, but he is not liable to be called to account by Parliament for any defect in a Bill.

"No distinction is made, as respects the mode of preparing Bills, between Bills which may be considered of great political importance and ordinary Bills, such as Highway Bills. In fact, Bills of the least political importance are often the most troublesome to draw, inasmuch as they may contain matters of detail requiring greater skill in drawing than the larger matters of principle which find their place in some political Bills.

"A Bill, when drawn, is brought into Parliament by a Minister. Speaking generally, its first stages in the House of Commons are,—first reading, second reading, Committee (meaning the whole House sitting as a Committee), consideration of the Bill as amended in committee, third reading. No alteration can be made in a Bill during its first and second reading, and only clerical errors can be corrected on the third reading. The time for amendments is in Committee and in consideration of the Bill as amended. A Bill may be committed to a committee more than once, and may be so amended as in effect to be entirely altered in character during its progress through the House of Commons, but, as a matter of fact, a Bill which has been properly drawn and vigorously supported by the Government, does not often change its character much during its progress through the House of Commons, and if such a change is made, the Bill practically comes back to the draftsman (as the agent of the Minister), who deals with it much in the same manner as if it were a new Bill.

"The progress of a Bill in the House of Lords is, with some technical exceptions, the same as in the House of Commons.

"Any member of either House can practically introduce a Bill. These Bills are drawn either by the members themselves, or by counsel employed by members at their own expense. As a general rule, public Bills of any magnitude, if brought in by private members, stand little chance of being carried, unless they are adopted by the Government.

"Private Bills, as they are called, that is to say, Bills which affect private interests, are in the nature of Parliamentary pleadings, and are totally distinct from public Bills. They are, in effect, settled by small committees of the House after a quasi-judicial investigation, in which counsel intervene. As a general rule, they pass through the House on the recommendation of the committee and without any further inquiry.

"Public Bills which call for a minute investigation, *e. g.*, a Bankruptcy Bill or a Factory Bill, or public Bills affecting special trades, are usually referred to a Select Committee, consisting of from fifteen to twenty, or more, members, who report their opinion to the House. The House, however, in the case of a public Bill, unlike what generally happens in the case of a private Bill, not unfrequently rejects, either wholly or partially, the report of a Select Committee, and deals with the Bills as seems best to the Committee of the whole House.

"With respect to the best mode of preparing Bills, I do not think it possible either for a Commission or a Committee themselves to draw a Bill. The drawing of a Bill must be regulated by one mind only, in order to secure uniformity in its language and arrangement. Either a Commission or a Committee is, no doubt, if well selected, an efficient body for criticising a Bill, but in England the criticism of public Bills is most effectually performed by the House of Commons itself, as any member who is, or whose constituents are, directly or indirectly, affected by any clause in a public Bill, is sure to lay his complaint first before the Minister in charge of the Bill, and afterwards, if he is not satisfied, before the House itself."

The value of Sir Henry Thring's services has been repeatedly recognized by prominent members of the two great political parties on the floor of the House, as well as by the public press, and by writers of acknowledged authority on subjects relating to legislative reform. It seems to be generally conceded that largely in consequence of his scientific methods a marked improvement has been made in the accuracy and efficiency of Acts of Parliament. That the much needed change has not been more radical is due to various causes peculiar to parliamentary proceedings. Not the least considerable of these is the practice of offering amendments to Bills, which, having passed a second reading, are before the House in Committee. These amendments are often

numerous and complicated, and not unfrequently adopting one or more of them would, as we have seen, materially alter the meaning and design of the Bill. During the discussion of these amendments the Parliamentary Counsel is present, and is consulted from time to time as to their legal effect. But such hasty consideration as must be given to them when business presses and members are eager for final action, is, of necessity, imperfect and inadequate. It follows that the government is occasionally obliged to abandon a Bill, which in the hurry of the closing days of the session, is in danger of being defaced by inconsistent or contradictory amendments.

The inconvenience and injury resulting from this source received especial attention at the hands of a Select Committee of the House of Commons, appointed in 1875 to "consider whether any and what means can be adopted to improve the language and manner of current legislation." The Right Hon. Robert Lowe, (since raised to the Peerage as Lord Sherbrooke,) was among the prominent men who appeared before the Committee. I make a few quotations from his testimony, because he had then been in the House of Commons for nearly twenty-five consecutive years, because he was Chancellor of the Exchequer when the office of Parliamentary Counsel was created, and because several of his suggestions have a very pertinent application to difficulties by which our own legislative assemblies are constantly embarrassed.

Reviewing the reasons which led the Government to appoint a Parliamentary Counsel, he said, in substance, that the previous employment of various accomplished draftsmen was attended with great expense ["as much as £800 having been paid for drawing a single Bill"], that there was an obvious disadvantage in having Bills prepared by different hands, however skilful, and that it was considered desirable that "young men should be trained in this peculiar branch of business, so that whenever a vacancy occurred there might be a competent man to fill it, because one may be very well qualified as a lawyer in many respects, and yet not fit for this kind of work unless he had been brought up to it." With reference to amendments he said: "The number has increased enormously during the last few years. Honorable members get directions from their constituents to put in amendments — the constituents have not seen the Bill — the members are anxious to please their constituents, and very

often the member in charge of the Bill is in despair. He sees that if he does not get his Bill through that night, he will not get it through at all. The worst that can come of it will be an amended Bill another year. Hence he prefers to pass the Bill as it is, rather than lose it by delay."

When asked if the Government draftsman could not carefully revise the amendments so as to be sure that they would not lead to conflict or ambiguity, he replied: "I think this might be done if things went on at an even pace all through the session, but, as the Committee know, they go faster and faster during the last few weeks, until at last nobody can clearly follow what is done."

"Mutato nomine, de nobis fabula narratur."

The serious mischief arising from the present mode of dealing with amendments are considered in an able article "on Reform in Parliamentary Business," in a recent number of the *Fortnightly Review*, by William Rathbone, Esq., for twelve years a member of the House from Liverpool, and now representing Carnarvonshire.

"Our legislation might be very much improved by a better system of drafting and revising amendments, and of revising Bills after they have been amended. Great improvements in the drafting of Bills have been introduced by Sir Henry Thring and others; but, even in this respect, much requires to be done. In Sir Henry Thring, the Government have had for many years a man apparently made of cast steel, whose enthusiasm for his work no amount of overwork or discouragement can extinguish. He has been ably seconded by his assistants, but three or four Sir Henry Thrings would be required to do efficiently the work which he has or ought to have to do; and to obtain the service of such men they ought, in dignity, position, and emolument, to be placed at least on a level with the judges who have to administer the laws of which the draftsmen are the artificers. The kind of ability necessary to enable a man to draft laws as Sir Henry Thring drafts them is far rarer than the capacity required to qualify an ordinary judge to administer them. The staff of the drafting department should be sufficiently strong to enable it to revise amendments proposed, and Bills when amended, so that they shall not become, as they too often do, utter nonsense, or, still worse, increase the evils they are intended to abate. To draft a Bill, or amendments in it, properly, it is necessary to consider, not only the context of the Bill itself, but also the rest of the law, whether contained in statutes or in cases which bear upon the subject. This may seem a truism, but it is habitually disregarded in our legislation. We cannot expect our legislation to be consistent, effectual, or comprehensible, until the drafting department of the Government is so organized and strengthened that it may be able to revise amendments proposed, and advise their proposers thereon, besides revising Bills after they have

passed through Committee and been dealt with on report. Since I became a member of the House I have never willingly proposed an amendment of importance without having it first considered by an able lawyer and draftsman as to its effect both upon the Bill and the existing law; and experience has confirmed my opinion that our legislation must be blundering, confused, and obscure, until some provision be made for such professional advice and revision. I venture, moreover, to think that the time of the House of Commons would be largely saved, its legislation improved, and its dignity better secured, if, instead of having, as now, the draftsman of important Bills seated under the gallery, and the Minister in charge of the measure running every few minutes to consult him as to the effect of amendments proposed, while some member, or one of his colleagues, speaks against time to enable him to do so, the draftsman were so far made an officer of the House as to be allowed, during the passage of the Bill, a seat at its table. He could thus advise those in charge of the Bill whether amendments proposed by private members were consistent with other parts of it, or with the existing law which the Bill did not propose to repeal, or what, having regard to the existing law, would be the effect of such amendments."

Many suggestions have been offered, looking to the removal or diminution of this evil, but, unfortunately, the trouble arising from amendments is only one of several causes which retard and confuse English legislation. Combined, they present a formidable front. Custom, precedent, tradition, the inevitable appeal to the wisdom of ancestors, the conviction that to discontinue an old form is to put the Constitution in peril, — all these are on their side. The stupidity of inherited conservatism, and the activity of disloyal faction join forces in defending them, and the parliamentary history of the Irish Land Bill demonstrates the obstructive power of this unnatural union. Meanwhile, thoughtful Englishmen are deeply impressed with the gravity of the situation. A forcible article in a recent number of the "*Spectator*," entitled "The Paralysis of Parliament," after enumerating the Bills of pressing importance which the Ministry have been obliged to abandon for this session, concludes by saying: "The Government of this country is not concentrated in Parliament in order to pass one Bill a year, however useful that Bill may be, and the only result of so restricting legislation, is to convince the people that some radical reform, either in elections or in procedure, is imperatively required. Conservatives, however moderate, will not, we fear, be delighted with either, when it arrives."

Not many days ago, the Lord Mayor of London entertained her Majesty's Government at the Mansion House. Notable speeches

were made by three members of the Cabinet with especial reference to the legislative dilemma. The Prime Minister — who, like the great demi-god of classic mythology, celebrates the completion of one Herculean task by the commencement of another, but unlike the deified athlete, who was limited to twelve exploits, will terminate his heroic labors only with his life, — alluded to the "partial paralysis" of Parliament, urged the necessity of adopting decisive measures for the despatch of public business, and intimated his intention to initiate such measures without delay. The Marquis of Hartington and Mr. Bright supplemented Mr. Gladstone with speeches in the same spirit; the latter announcing with significant emphasis that the machinery did not so much need oiling as mending. When the leaders of a great party, with a controlling majority in the House of Commons, commit themselves to such public declarations, the desired reform cannot be far distant.

Turning now to France, we find that the existence of a Code tends to check the luxuriance of legislation. There is a striking coincidence of opinion, not only among jurists and lawyers, but generally among legislators, in that country, that no statute should be enacted which is not in positive harmony with the Code, or does not unequivocally abrogate one or more of its provisions. In other words, no efforts are spared to avoid contradictory enactments, as well as "piece-meal and haphazard legislation."

Every Bill, whether emanating from the Government or (which does not often occur) from a private member, is, at first, a *projet de loi*, and is usually prefaced by an *exposé des motifs*. This *projet de loi* is framed in the bureau of the Minister of Justice, and is subsequently submitted to the Chamber. Having been read, it is referred to a commission which, however composed, always contains, *ex-officio*, the Government lawyers. This Commission report their opinion upon the law as proposed, particularly with reference to previous legislation. At every subsequent stage of the Bill, whenever an amendment is made, it is passed upon by the Commission. In other words, every amendment compels a revision. The revising board, as it may be called, does not deal with the subject-matter of the enactment, but corrects its phraseology where it is ungrammatical or obscure, and reports the effect of the law and its amendments upon laws already in operation. The final disposition of the Bill rests entirely with the Chamber, but the members always act with full knowledge of the legal aspects of the case,

and of all the important bearings and relations of the proposed measure. If their legislation is unwise or immature, they cannot plead ignorance as an excuse.

Not to prolong this branch of our subject into wearisome detail, it may suffice to say that in Prussia, Belgium, Switzerland, Italy, and to some extent in other continental nations, similar measures are adopted to secure the uniformity, coherence, clearness, and accuracy which are so essential to the efficient operation of all legislative enactments.

I have thus far considered the methods of law-making prevailing in our own country, with some illustrations of the practical evils resulting from those methods, and have called your attention to certain features peculiar to the legislative proceedings of other countries. It now seems pertinent to inquire, in conclusion, whether some adequate reformatory measures applicable to our present necessities cannot be devised. For I assume, with little fear of contradiction, that a case has been made out urgently calling for prompt and thorough treatment. If the diagnosis discloses a well defined disease, of which the cause is ascertained and the symptoms are intelligible, it is equally true that the constitution of the patient is, at present, vigorous enough to bear all appropriate remedies.

The genius of the American people, (aside from political complications), will generally be found in sympathy with any rational scheme for simplifying the law or increasing its efficiency. Fortunately, we are not respectful to an abuse because of its antiquity. A bad custom does not, under our skies, ripen into a blessing. We may worship some unworthy idols, but "Precedent" is not among them. Perhaps all this belongs to the proverbial irreverence of youth. In England, says Sydney Smith, an error only a hundred years old "has not even displayed the full bloom of its imbecility."

By way of circumscribing the jurisdiction of the reformer who would seek to improve the quality of current legislation, it may be well to concede at once that it would be unwise to abridge the right of petition or to limit the highly prized privilege of proposing laws to cover every imaginable grievance. The remedy described and commended in that ingenious and entertaining chronicle, Knickerbocker's History of New York, is ill adapted to a state of society in which the citizens are sovereigns. "Among the wrecks and fragments which have floated down the stream of time from

venerable antiquity and been picked up by those humble but industrious wights who ply along the shores of literature, we find a shrewd ordinance of Charondas, the Locrian legislator. Anxious to preserve the judicial code of the State from the additions and amendments of country members and seekers of popularity, he ordained that whoever proposed a new law should do so with a halter about his neck—whereby, in case his proposition were rejected, they just hung him up,—and there the matter ended.

"The effect was, that for more than two hundred years there was but one trifling addition to the judicial code, and legal matters were so simple that the whole race of lawyers starved to death for want of employment. The Locrians, too, being freed from all incitement to litigation, lived very lovingly together, and were so happy a people that they make scarce any figure in history."

But while this policy may not be suited to our civilization, it does not seem just that such a culprit should escape with entire impunity, as the one who, probably having in mind reported cases where suspended animation had been mistaken for death, recently offered a bill for enactment in one of our State Legislatures which made provision "for ascertaining whether life is extinct in a deceased person."

The practical question, however, is not, how shall we deter silly persons from proposing foolish measures, but how can we protect the Statute Book? How can we prevent the clumsy blunders of callow legislators from being solemnly engrossed among our "standing laws?" How can we rescue legislation from merited contempt. How can we relieve our courts from the intolerable burden of construing enactments which are an insult to common sense, and hearing arguments which are a weariness to the flesh, to avert what was from the first a foregone conclusion?

Periodical revision is the customary expedient, but it will hardly be contended that this is an adequate remedy. For, in the first place, it has an obvious tendency to encourage rather than to check initial error. It virtually says to the unfledged Lycurgus who deserves only swift suppression, "By all means insist on your pet absurdity. Whatever folly is enacted may be repealed hereafter, or, if not sooner disposed of, will ultimately be revised out of existence."

Again, if those to whom the work of revision has been committed could discharge their duty by simply expunging those statutes

which have been repealed, and those which have become obsolete (such as State legislation based on the Federal Fugitive Slave Law), and by incorporating into the body of existing laws those amendments which restrict, enlarge, or otherwise affect their scope —thus compiling rather than revising legislation—it will be found that while there is less labor than in revision, as generally understood, the remedy is, of necessity, imperfect.

For, in the first place, as the Commissioners under this method are limited to the correction of faults of expression, the reform is superficial. The substance of all statutes, however vicious or unwise, is scrupulously retained, and nonsense is only made to appear consistent with the principles of grammar, and obedient to the rules of rhetoric.

In the second place, compiling involves, in addition to consolidation and arrangement, the labor of interpretation. That is to say, the Commissioners must endeavor to put such a construction upon the crude work of incompetent legislators as shall bring to light the real intent of the authors. That this is often far from easy, sometimes most difficult, and occasionally impossible, will be admitted by those on whom such a task has ever been imposed. They will readily recall instances of an obscurity so dense as to defy all attempts at illumination, while under their instructions, the opaque enactments could not be discarded.

This, however, is not what is ordinarily meant by revision. In reference to statutes, the term has come to signify not merely compilation or even material modification of existing laws, but also the framing of new laws. This would seem to invite mistakes hardly less serious than those which revision is designed to correct. We will suppose the responsible duty entrusted to fairly competent hands. We will assume that during twelve months (the average term allotted to the task), they devote a considerable portion of their time to the work of revising the legislation of twenty previous years, and the drafting of the new statutes which they may think it advisable to report. What follows? At the next session of the Legislature, the assembled wisdom is confronted with this vast accumulation, and is asked to pass upon its merits. How much of labor this may imply we can infer from a single instance. In one of our States, and not the most recent or most progressive of the sisterhood, the Legislature soon to be convened will deal with a revision containing three hundred Bills which are either con-

siderable changes of laws now in force or new enactments—and this in addition to the usual requirements of the session.

I surely need not seek to prove that if the average Legislature is unable, from want of time or want of experience, to do justice to the demands of current legislation, it must, *a fortiori*, be unfitted for the far more arduous duty of revising a revision. That, with infrequent, if any exceptions, a careful and exhaustive review of the work of the revising commissioners is necessary, cannot, we think, be seriously questioned. The appointments are rarely, if ever, made from the best material. The probable compensation is not sufficient to tempt eminent lawyers to lay aside or largely interrupt their lucrative practice, for at least a year. The result is that places are sought by politicians whose party services must be rewarded, by attorneys to whom the very moderate remuneration offers a pecuniary inducement, and by youthful members of the bar whose reputations have yet to be made.

Now and then, apparently for the sake of dignifying the Commission, a lawyer of acknowledged ability heads the list, but, as a rule, his services are comparatively nominal, and the greater part of the labor is performed by inferior talent. In view of the difficulty and magnitude of the undertaking, the brief time usually allowed for its completion, and the inexperience of those to whom it is committed, it is not surprising that the result fails to satisfy the profession or to meet the reasonable wants of the public.

It has been suggested that statutes as reported by Judiciary Committees should be printed and continued to another session for final action. This certainly affords additional opportunity for examination, but does not ensure a more trustworthy tribunal. Another expedient is that a law officer, as, for instance, the Attorney-General, where such an office exists, should be directed in behalf of the State to be in attendance on the Legislature and revise all Bills which have been favorably reported. This, of course, would be an obvious improvement upon the present methods. But there would still remain the injury resulting from the hurry and confusion of the closing days of the session.

A long step in the direction of reform has been taken by one of the Middle States, which, in its new Constitution, prohibits the General Assembly from passing local or special laws on a great variety of subjects. But while this will materially diminish the

danger of bribery and corruption, and relieve legislators from a serious tax upon their time, it will not increase their mental capacity or supply their want of practical skill in the science of law-making.

Of late years, in some States, a custom has prevailed which has proved of great utility. Commissioners appointed by the Executive, (under a legislative resolution), generally with excellent judgment and without reference to politics, have been empowered to investigate special subjects on which general laws have been desired, to report the result of their deliberations, and, if they deemed legislative action advisable, to draft, in form, a statute to be enacted. I believe it has ordinarily been found that, when the report of a competent Commission has recommended the passage of an accompanying Act, it has rarely failed to receive the support of a majority of the Legislature. The only objection to this method is that it takes into account only a very small proportion of the matters which, from time to time, legitimately call for the consideration of our State Legislatures.

But are there not some features in this mode of legislating by Commission which point to the possibility of a more extended and far-reaching reform? Do they not suggest the idea of a permanent, non-partisan Commission, whose province it should be to consider all projects for public laws, giving audience to all persons who wish to be heard for or against proposed measures, and reporting their conclusions to the next session of the General Assembly? Such a body, composed mainly of eminent lawyers, might well include a representation from the mercantile class. Not being dependent for their tenure of office on popular caprice or the mutations of party, the members of such a commission might be expected to acquire some knowledge of the science of jurisprudence, some familiarity with the fundamental law of their State, some definite information as to what had already been enacted. They would naturally be led to consider with some care what subjects properly call for legislative interference, and concerning what subjects men may be more wisely permitted to regulate their own affairs. Recognizing the fact that a law which cannot command the intelligent and active support of a majority of any community will inevitably become a dead letter, they would avoid conflict with a superior strength of public opinion, no matter how plausi-

ble, on grounds of abstract morality, the proposed enactment might be made to appear.

They would not shrink from originating a law which would remove an existing abuse, or prevent a threatened harm, or correct a previous error in legislation They would never resort to the indolent or cowardly excuse for inaction that there had been no petition on the subject, when they had become convinced that action was desirable and practicable. They would avail themselves of the legislative experience of other communities, and seek, so far as possible, to bring the legislation of their own State into substantial harmony with that of surrounding States. Finally, "to secure uniformity in language and arrangement," they would depute to one of their number the duty of drafting all such Bills as they had decided to present for the deliberation of the General Assembly. It is in keeping with the spirit of these suggestions, that when the Legislature is convened the members of the Commission should be entitled to seats on the floor of the House, and be allowed to explain, and, if necessary, defend, their action. This has recently been carried into effect, and with gratifying results, in a Western State, where precisely such a privilege was conferred during two sessions of the Legislature upon the Commissioners who had reported a new code.

This scheme may not commend itself to the popular judgment, but it is submitted as the rough outline of a plan which may contain some features worthy of consideration. Of course, the cry can easily be raised that it calls for a new body of salaried officials, that it leaves the Legislature without occupation (although the opportunity of discussion and the exclusive right of final action would really remain as before), and that the people's representatives are competent to make the people's laws. Of course, it would encounter the opposition of those lawyers who contemplate a legislative blunder with feelings akin to the savage greed with which, in "the good old days," a Cornish wrecker looked upon a stranded ship, and of those politicians who have found it no difficult task to engineer a bad law through an overworked committee and a pre-occupied Legislature.

This need not excite our wonder. The legal profession contains a few ignoble practitioners, and I fear that some members of the "lobby" are venal. But among honorable lawyers and legisla-

tors, the conviction is rapidly gaining ground, if I mistake not, that our present methods of law-making are harmful, fatally defective, and entirely unworthy of highly civilized, progressive, and self-governing communities. To suppose that no practical remedy can be found for so serious an evil, or that when discovered it will not be adopted, is to underrate the intelligence and the wisdom of the American people.

THE THREE-FOLD ASPECT OF SOCIAL SCIENCE IN AMERICA.

A REPORT BY F. B. SANBORN, GENERAL SECRETARY.

[Read Tuesday Morning, September 6.]

Ladies and Gentlemen, Members of the Association: —

It has more than once fallen to my lot to address you, here and elsewhere, on the worth and the work of what we call Social Science, in this vast federal republic of ours, which has now become, in extent and population, the largest of all civilized nations. For we refuse to reckon in the tables of civilization those millions of the Czar's subjects, who know no better system of government after all these years than absolute monarchy tempered by assassination. It may indeed be reckoned some alleviation of the barbarism of Russian revolution that assassination, popularized like everything else in this democratic century, has been handed down from princes of the royal blood and the court favorites to the leaders of the party of progress. "I saw the new Czar," said a lady who witnessed the coronation of the first Alexander, "walking to the church preceded by the assassins of his father, escorted by the assassins of his brother, and followed by his own." In those days murder was the passport to the imperial succession, —in ours it is the exceptional and abhorred rescript, for the service of which we have been waiting these many dismal weeks, even in free America. God grant that the decree may never be registered as it has lately taken effect in Russia; and that the American people may not see twice within twenty years the sovereign power handed down to the unwilling legatee of an assassin.

Out of proportion even to the unprecedented growth of our national greatness is the relative importance of Social Science to the people of our republic. For these new millions do not merely add citizens to the body politic, and States to the confederation, they involve new questions of race, of institutions, of sanitary conditions, of political administration, of law-making and law-enforcing. Our President has mapped out, with profound research and practical sagacity, the chart of the future legislator in America; but this is only a single scene in the three-fold aspect which Social

Science offers to us, her votaries and pupils in this land of ours. Permit me, then, before coming to the slight activity of our own Association in the past year, to direct your thought toward this three-fold aspect, — asking you to consider: —

The Educational Work of Social Science;

Its Administrative Work;

Its Work of Agitation and Indoctrination.

In touching briefly on these three aspects of our work as an Association, I shall freely use now, as I have in former years freely profited by, the ideas and theories of our lamented associate, the late Prof. Peirce of Cambridge. He was always willing that his friends should light their candles at his ever-burning lamp of thought; and I sail with security in the channel that his seamanship buoyed out and laid down on the map.

In the perils that have beset our youthful Association, Prof. Peirce more than once came to the rescue, and we owe it to him and to his friend and ours — Agassiz — that in 1872–3 our work was not suspended, and the epitaph of the Association elegantly written. These two genial educators — for that was specially their function — looked oftenest at the educational work of social science, and particularly at what could be done in that way in our chief universities, — concerning which they had, as you know, peculiar and interesting views. Agassiz may be said to have naturalized science in the American university — where before his time it was a cipher, afterward a significant and controlling figure. Peirce also swept a powerful oar in the galley of science, and to him we owe a project for the development of social science at a great university, which ought to be made public, since it contains the germ of much that the future must see developed in our country, and that has already, here and there, begun to develop itself.

SOCIAL SCIENCE IN UNIVERSITY EDUCATION.

In the year 1878, after our brilliant general meeting at Cincinnati, where Peirce had presided, we were discussing at council meetings, as we often had occasion to do, how best to keep the lamp alive, in this generous, sprawling, forgetful continent, where the citizen will offer all his substance one day in some public cause, and the next week, perhaps, will forsake the memory and forget the name of his transient enthusiasm. Prof. Peirce, presiding at our little council in Pemberton Square, Boston, one day in September

that year, brought forward his plan for filling our bowl with oil, and making our light so shine before men that they would glorify our neglected science and take profit by its public lessons. He reminded us of the ancient universities of Europe, which were not then stagnant endowments for the perpetuation of ancient use and error, — but were rather camps for intellectual combat and temporary store-houses of intellectual force. Thither, to Oxford, to Paris, to the early continental seats of learning came young and old by thousands; not to make perfect a childish routine of knowledge, but to hear the stirring words of men, on topics in which they felt the liveliest concern. "The freedom of these conferences," said Peirce, "made these middle-age universities alarming to the governments under which they existed, and to the church which had at first planted them and directed their instruction. At the same time, the power which these universities gave, in the days of Abelard and Peter of Lombardy, to influence public opinion through the students who thronged to them in such numbers made it important and desirable to control them. Kings and prelates therefore took possession of them gradually, and, after some centuries of experiment, organized them in their present form, which partakes somewhat of their ancient character, but lacks its essential features. Thus the old impromptu university died out: but our free republic is the place, and this the time to revive it."

Prof. Peirce therefore proposed that a beginning should be made by connecting with some one existing university in the United States the educational work of the American Social Science Association, which, he thought, should meet once or twice a year for a session of three or four weeks. At this session, which would be an extension of such meetings as our present one, he wished to bring together the persons in America best qualified to read papers and join in debates on the multiform phases of social science, whose number no man has yet counted; taking up these questions, as we do, not all at once, but as occasion served and the condition of the country should require. The experts thus brought together for a few weeks would form a *senatus academicus*, not for the purpose of guarding the morals or restraining the coltishness of young men, nor even to confer degrees, and shape systems of instruction, but to instruct one another, as well as those less advanced students who should listen to them. During the rest of the year, at this one chosen university, a regular professor of Social Science, who might

also be the Secretary of the Association, was to correspond with its members and carry on the work of his department among the regular resident students, much as the ordinary college professor now does. In like manner Peirce proposed that the American Association for the Advancement of Science should connect itself with some other university, thus dividing the provinces of natural and social science, and providing for their special cultivation at different seats of learning, but in the same general manner. The chosen university should undertake at its own expense to publish the papers and discussions of the occasional conferences, and perhaps, also, pay the cost of the meetings.

Such, in brief outline and without the enthusiastic eloquence with which our friend presented his plan, is the project of Prof. Peirce. In debating it, the Council considered several objections, which at first appeared fundamental, but which were mainly removed by the suggestion (readily adopted by Prof. Peirce) that the whole broad charter of our Association should be understood to cover the three kinds of activity already mentioned in this report — the educational, the administrative, and the agitating work — only one of which (the educational) could properly find its place in any university, however ample or tolerant. It was then inquired whether any university now established and having the requisite conditions of geographical situation, permanent endowment, broad views of education, etc., could be found to institute the experiment. None such appearing, the project was laid aside for the time, and could never again be taken up during the life of its author.

In another department of study, however, a portion of our plan was put in operation, and has already passed the first stage of successful experiment. I allude to the Concord School of Philosophy, of which Prof. Peirce was one of the earliest promoters, and, so long as his health allowed, one of the lecturers. The germ of this school had long existed in the mind of our associate, Mr. Alcott (whose observations on another subject will to-day be laid before the Department of Education); its general scope and the concurrence of its chief instructors were already determined; but the project of Prof. Peirce, above described, opened in the imagination of your Secretary a vista, which seemed to indicate the natural and best form of instruction. I therefore took occasion, early in the year 1879, to lay the scheme of the Concord School before Prof. Peirce, and to inquire of him whether in its field of thought it

might not avail itself of the same stimulus that had been found so effective of old at Bologna, at Padua, at Salamanca, and at Paris, in the enthusiastic period of university education. Here, indeed, was to be no broad university, but the frank conference on special questions, which seemed to be the secret of the middle-age enthusiasm and success. Prof. Peirce recognized the opportunity thus afforded, entered heartily into the details of the Concord plan, suggested certain measures of a practical nature and the names of certain lecturers; what was better still, he gave his own name to an undertaking concerning which men far younger than he were skeptical, both as to its feasibility first and its utility afterward. He lived to see it moderately successful, and it has gained, since his death, a firmer hold on its province of instruction, and fully established its right to exist. To this extent, then, we are justified in regarding the complete project of Peirce as practicable,—and I have here made it public, in order that future action may be taken in regard to it, when the hour and the man for its development shall have both arrived.

For this educational part of our work, whether in such a university as he had in mind, or in the present method we employ, Prof. Peirce was admirably equipped. Master in his own mathematical specialty, he could afford to be magnanimous and helpful to all other men, investigating these paths of truth where certainty is less infallibly reached and proved. In these paths also he was no idler and no blindfold guide, neither hooded by custom or preconceived opinion, nor deluded by his own wishes. Yet he sought truth more as a lover than as a professor, and maintained in his strenuous age that somewhat impatient enthusiasm which is the mark of youthful souls. Envy, that sometimes makes its pitiful exhibition even in great minds, as we have lately seen by the "Reminiscences" of Carlyle, was proudly dismissed from his. He recognized, and, far better, he practised that noble duty of admiration for the achievement or the promise of other men, which the cold northern race, especially when hived in colleges, too often neglects. For in the community and mutual respect of learned men, he knew that the best science, whether physical or metaphysical, was always *social*.

A word, in passing, to the memory of those other members of our Association who have died since we last assembled here. I do not name them all, for Death now has become suspicious of a

society that finds so much zeal and activity in aged men,— and he strikes with his dart too often at our little company. But we must not forget those two citizens of New York, Isaac Sherman and Samuel B. Ruggles, who joined us in the evening of their days, and in the Department of Finance did so much educational labor. They had the persistence of conviction in their opinions, which were for the good of others, in affairs where too many financial experts consult only their own advantage; they added weight to our Association, and brought clearness and force to its debates.

THE ADMINISTRATIVE TASKS OF SOCIAL SCIENCE.

Such men, however, find their best place in another field of our labor,— the execution and practical illustration of principles. "I was created," said a man of genius in our day, "a seeing eye and not a helping hand." But the helping hand—the practical sense and administrative skill of public officials, high and low, or those men (and of late years women) who administer important private trusts — are of great service to social science; which, by its very nature rushes to an application, and will not long abide, like speculative philosophy, in the light air and confused limbo of theory. We are pupils in such a school as that of Mr. Squeers, where the first class in hydraulics daily took a turn at the pump. Were we disposed to vaunt ourselves as those who lay off their armor, rather than as he that putteth it on, we might point in the short list of our members, present and past, to a greater number of these administrative men and women than the records of any other society in America can show. Our aboriginal predecessors took no comfort in life, we are told, until they could show at the council-fire the scalp of a foe; the highest reward of a Roman, on the contrary, was the garland that proclaimed he had saved the life of a citizen. How many in our decimated ranks could exhibit both these trophies! the *exuviæ* of some old abuse they exterminated, the record of some life-saving reform in sanitary or charitable or penal administration. Our State and city governments, and now, in some degree, our national government, have become doers, if not hearers, of the word in social science: and the avenues thus opened, under a democracy, in a nation of 50,000,000, are practically endless.

AGITATION AND INDOCTRINATION IN SOCIAL SCIENCE.

Closely allied to this administrative work,— sometimes preceding it, sometimes accompanying it, and sometimes destroying and

replacing it,— is the task of agitation, that a society like ours must perform. It was this function in which the founder of the British Social Science Association, the late Lord Brougham, excelled. That "searching and restless spirit,"— as a far greater lord chancellor described Brougham by anticipation,— that "wandering and variable mind," always seeking "a fort or commanding ground for strife and contention," and in his later years a sad, vain-glorious scold — had yet marvellous powers for agitation and the reform of abuses. We read again and again with pleasure (because it is a tribute to noble powers of human nature, vigorously wielded,) that tribute of his friend Sydney Smith to the short career of Brougham as chancellor :—

"Then look at the gigantic Brougham, sworn in at 12 o'clock, and before 6 has a bill on the table, abolishing the abuses of a court which has been the curse of the people of England for centuries. For twenty-five long years did Lord Eldon sit in that court, surrounded with misery and sorrow, which he never held up a finger to alleviate. The widow and the orphan cried to him as vainly as the town crier cries when he offers a small reward for a full purse; the bankrupt of the court became the lunatic of the court; estates mouldered away and mansions fell down; but the fees came in and all was well. But in an instant the iron mace of Brougham shivered to atoms this house of fraud and of delay; and this is the man who will help to govern you; who bottoms his reputation in doing good to you; who knows that to reform abuses is the safest basis of fame and the surest instrument of power; who uses the highest gifts of reason and the most splendid efforts of genius to rectify those abuses, which all the genius and talent of the profession have hitherto been employed to justify and to protect. Look to Brougham and turn you to that side where he waves his long and lean finger; mark well that face which nature has marked so forcibly — which dissolves pensions, turns jobbers into honest men, scares away the plunderer of the public and is a terror to him who doeth evil to the people."

Observe now, if you please, that reforms such as these ascribed to Lord Brougham, though preceded by a long period of *agitation*, were in fact effected in a brief season of *administration*,— a fact showing how closely connected are these two activities in social science. Indeed, administration, under popular governments, is often made the most effective means of agitation,— not only by investigating abuses and calling attention to remedies, before applying them,— but by holding those courts of *oyer* which, in modern practice, are separated by a short interval from tribunals

of *terminer*, instead of being united for hearing and deciding causes, as in the Norman-French jargon they were. That organization which since 1874 has sprung out of our Department of Social Economy — I mean the Conference of Charities — is one of these audience tribunals, where systems and measures are given a hearing, before the legislative bodies, of which President Wayland has spoken, are called upon to enact or repeal by law. In such assemblies as we held six weeks ago in Boston, agitation and indoctrination, in certain fields of social science, are carried on by persons who at other times are engaged in the practical administration of public charities, reformatories, and prisons. There could scarcely be a better example of that work of which I am now speaking than this very Conference and that last year at Cleveland furnish us. And it is to be noticed (as I have more than once mentioned in these annual reports) that the Conference of Charities is the child of our Association, though now a grown-up child with an establishment of its own. We called together the first of these Conferences at the city of New York in the spring of 1874, and for five years we held them in connection with the general meetings of this Association. And we also called together the first Conference of boards of health at the same New York meeting of 1874 at a time when only seven of our States had appointed boards of health, and long before a national health board had been established. Among our members arose also the American Public Health Association in 1874, the National Prison Association in 1870, and, last year, the Association for the Protection of the Insane and the Prevention of Insanity. The last-named organization indeed may be said to have had an evolution, such as we hear so much about in plants and animals. Its genealogy stated in scripture language would be something like this: the Social Science Association begat the Department of Social Economy, which begat the Conference of Charities, which begat the new association. Yet, even as in physiological evolution, the parent retains imperfect resemblances to the developing child, so we retain in our Social Economy and Health Departments, rudiments of the organizations that have grown forth from and beyond them.

We may fairly claim also to be the parent of the numerous civil service reform associations that are now coming into life and activity; since it was by our Association, from 1865 to 1872, that this subject was first systematically brought before the American

people for examination with a view to reform. We shall hear it eloquently presented, and not for the first time, by our associate and former president, Mr. Curtis, Thursday evening; and while we listen to him we shall not feel, as in the case of some new converts to the true doctrine, that the popular current has swept him along contrary to his inclination. Mr. Curtis has said one thing from first to last, while the politicians have been saying many things and doing little or nothing. As they now rush to the front, some with one shibboleth, some with another, but all eager to pass muster as reformers, we cannot help thinking of that artless boy who was drawing near his father's fire-side, holding out his hands. "Why do you go there?" said his father — "the weather is not cold." "I am not heating the weather, papa, I am just warming my hands," was the reply. When we began the civil-service agitation, twelve or fifteen years ago, it seemed like trying to "heat the weather" in winter with a single bonfire, but now congressmen are coming to warm their hands at the blaze.

In the absence of our energetic Secretary of the Department of Education, it behooves me to speak of a matter which she will introduce in her Report, soon to be read, and which still more forcibly illustrates the proverb that if you keep a thing a dozen years you will find a use for it. In calling for methodical information concerning infant development, as Mrs. Talbot has done, she has brought out the interesting fact that the eldest of all our members (Mr. Alcott) had taken up this inquiry and carried it far, in his own family, half a century ago, and before Mr. Darwin, who has since written upon it, had left the university. Letters from both these gentlemen will be read in the meeting this morning; and at the business meeting on Wednesday evening the name of Mr. Darwin will be proposed as an honorary member of our body.

The Department of Health will present one of its papers, that by Dr. Putnam-Jacobi, on the prevention and early treatment of insanity, at the general session of Wednesday evening, immediately after the election of officers. This is a subject to which she has given more thought than most American physicians. Another phase of the question of insanity will be touched upon by Dr. Channing in his address to the Department on Wednesday morning; and we hope to have both debated by competent persons.

Our Department of Finance has slumbered during the past year, as one or another of our departments is sure to do, — especially

after a period of vigorous action. In each of the other departments, papers and discussions will be given, according to the schedule that has been distributed among the audience; and these proceedings, or the main part of them, will be published for our members early in 1882, in two numbers of the Journal of Social Science. During October the proceedings of the Boston Conference of Charities will be distributed to our members, making a volume of some 360 pages. The conditions of our membership are simple — no election being requisite, and the annual fee being but $5. Our rule is to drop from the list of members those who have not paid this fee for two years, and to restore those who pay the arrears of one year. We hope to add many new members at this meeting; and should they, or others, be moved to contribute to the publication fund, their subscriptions will be made useful in printing our documents.

In preparing for the general meeting and the Conference of Charities, in publishing and circulating our volumes and in carrying on the needful correspondence, the Association now does all that its income allows. The Council, however, meets quarterly, and at three of these meetings holds itself ready to hear any papers or engage in any public discussion coming within the scope of our organization. These Council meetings are held at Boston and New York, and in one other convenient city, when occasion requires. They have not been so fully attended as could be wished; nor have the standing committees of the Departments acted always with the energy that would be desirable. Let me express the hope that another year will witness a change in these respects, and that the work of the Association, in its threefold aspect, may become as extensive as its own wide province, as perpetual as the needs and exigencies of our country.

CIVIL-SERVICE REFORM.

AN ADDRESS BY GEORGE WILLIAM CURTIS.

[Delivered Thursday Evening, September 8, 1881.]

Twelve years ago I read a paper before this Association upon reform in the civil service. The subject was of very little interest. A few newspapers which were thought to be visionary occasionally discussed it, but the press of both parties smiled with profound indifference. Mr. Jenckes had pressed it upon an utterly listless Congress, and his proposition was regarded as the harmless hobby of an amiable man, from which a little knowledge of practical politics would soon dismount him. The English reform, which was by far the most significant political event in that country since the parliamentary reform bill of 1832, was virtually unknown to us. To the general public it was necessary to explain what the civil service was, how it was recruited, what the abuses were, and why and how they were to be remedied. Old professional politicians who look upon reform as Dr. Johnson defined patriotism, as the last refuge of a scoundrel, either laughed at what they called the politics of idiocy and the moon, or sneered bitterly that reformers were cheap hypocrites who wanted other people's places and lamented other people's sins.

This general public indifference was not surprising. The great reaction of feeling which followed the war, the relaxation of the long-strained anxiety of the nation for its own existence, the exhaustion of the vast expenditure of life and money, and the satisfaction with the general success, had left little disposition to do anything but secure in the national polity the legitimate results of the great contest. To the country, reform was a proposition to reform evils of administration of which it knew little, and which, at most, seemed to it petty and impertinent in the midst of great affairs. To Congress it was apparently a proposal to deprive members of the patronage which to many of them was the real gratification of their position, the only way in which they felt their distinction and power. To such members reform was a plot to deprive the bear of his honey, the dog of his bone, and they stared and growled incredulously.

This was a dozen years ago. To day the demand for reform is imperative. The drop has become a deluge. Leading journals of both parties eagerly proclaim its urgent necessity. From New England to California public opinion is organizing itself in reform associations. In the great custom-house and the great post-office of the country, those in the city of New York, reform has been actually begun upon definite principles and with remarkable success, and the good example has been followed elsewhere with the same results. A bill carefully prepared and providing for gradual and thorough reform has been introduced with an admirable report in the Senate of the United States. Mr. Pendleton, the democratic senator from Ohio, declares that the spoils system which has debauched the civil service of fifty millions of people must be destroyed. Mr. Dawes, the republican senator from Massachusetts, summons all good citizens to unite to suppress this gigantic evil which threatens the republic. Conspicuous reformers sit in the cabinet; and in this sorrowful moment, at least, the national heart and mind and conscience, stricken and bowed by a calamity whose pathos penetrates every household in Christendom, cries to these warning words, "Amen! Amen!" Like the slight sound amid the frozen silence of the Alps that loosens and brings down the avalanche, the solitary pistol-shot of the 2d of July has suddenly startled this vast accumulation of public opinion into conviction, and on every side thunders the rush and roar of its overwhelming descent which will sweep away the host of evils bred of this monstrous abuse.

This is an extraordinary change for twelve years, but it shows the vigorous political health, the alert common sense and the essential patriotism of the country, which are the earnest of the success of any wise reform. The war which naturally produced the lassitude and indifference to the subject which were evident twelve years ago had made reform indeed a vital necessity, but the necessity was not then perceived. The dangers that attend a vast system of administration based to its least detail upon personal patronage were not first exposed by Mr. Jenckes in 1867, but before that time they had been mainly discussed as possibilities and inferences. Yet the history of the old New York council of appointment had illustrated in that State the party fury and corruption which patronage necessarily breeds, and Gov. McKean in Pennsylvania at the close of the last century had made "a clean sweep" of the

places within his power. The spoils spirit struggled desperately to obtain possession of the national administration from the day of Jefferson's inauguration to that of Jackson's, when it succeeded. Its first great but undesigned triumph was the decision of the first Congress in 1789, vesting the sole power of removal in the president, a decision which placed almost every position in the civil service unconditionally at his pleasure. This decision was determined by the weight of Madison's authority. But Webster nearly fifty years afterward, opposing his authority to that of Madison, while admitting the decision to have been final, declared it to have been wrong. The year 1820, which saw the great victory of slavery in the Missouri Compromise, was also the year in which the second great triumph of the spoils system was gained, by the passage of the law which under the plea of securing greater responsibility in certain financial offices, limited such offices to a term of four years. The decision of 1789, which gave the sole power of removal to the president, required positive executive action to effect removal, but this law of 1820 vacated all the chief financial offices, with all the places dependent upon them, during the term of every president, who, without an order of removal, could fill them all at his pleasure.

A little later the change in the method of nominating the president, from a congressional caucus to a national convention, still further developed the power of patronage as a party resource, and in the session of 1825–26, when John Quincy Adams was president, Mr. Benton introduced his report upon Mr. Macon's resolution declaring the necessity of reducing and regulating executive patronage; although Mr. Adams, the last of the Revolutionary line of presidents, so scorned to misuse patronage that he leaned backward in standing erect. The pressure for the overthrow of the constitutional system had grown steadily more angry and peremptory with the progress of the country, the development of party spirit, the increase of patronage, the unanticipated consequences of the sole executive power of removal, and the immense opportunity offered by the four years' law. It was a pressure against which Jefferson held the gates by main force, which was relaxed by the war under Madison and the fusion of parties under Monroe, but which swelled again into a furious torrent as the later parties took form. John Quincy Adams adhered with the tough tenacity of his father's son to the best principles of all his pre-

decessors. He followed Washington, and observed the spirit of the constitution in refusing to remove for any reason but official misconduct or incapacity. But he well knew what was coming, and with characteristically stinging sarcasm he called Gen. Jackson's inaugural address, "a threat of reform." With Jackson's administration in 1830 the deluge of the spoils system burst over our national politics. Sixteen years later, Mr. Buchanan said in a public speech that Gen. Taylor would be faithless to the Whig party if he did not proscribe Democrats. So high the deluge had risen which has ravaged and wasted our politics ever since; and the danger will be stayed only when every president, leaning upon the law, shall stand fast where John Quincy Adams stood.

But the debate continued during the whole Jackson administration. In the Senate and on the stump, in elaborate reports and popular speeches, Webster, Calhoun, and Clay, the great political chiefs of their time, sought to alarm the country with the dangers of patronage. Sargent S. Prentiss in the House of Representatives caught up and echoed the cry under the administration of Van Buren. But the country refused to be alarmed. As the Yankee said of the Americans at the battle of White Plains, where they were beaten: "The fact is, as far as I can understand, our folks didn't seem to take no sort of interest in that battle." The reason that the country took no sort of interest in the discussion of the evils of patronage was evident. It believed the denunciation to be a mere party cry, a scream of disappointment and impotence from those who held no places and controlled no patronage. It heard the leaders of the opposition fiercely arraigning the administration for proscription and universal wrong-doing, but it was accustomed by its English tradition and descent always to hear the Tories cry that the constitution was in danger when the Whigs were in power, and the Whigs under a Tory administration to shout that all was lost. It heard the uproar like the old lady upon her first railroad journey, who sat serene amid the wreck of a collision, and when asked if she was much hurt, looked over her spectacles and answered blandly: "Hurt? Why I supposed they always stopped so in this kind of travelling." The feeling that the denunciation was only a part of the game of politics, and no more to be accepted as a true statement than Snug the joiner as a true lion, was confirmed by the fact that when the Whig opposition came into power with President Harrison, it adopted the

very policy which under Democratic administration it had strenuously denounced as fatal. The pressure for place was even greater than it had been ten years before, and although Mr. Webster as secretary of state maintained his consistency by putting his name to an executive order asserting sound principles, the order was swept away like a lamb by a locomotive. Nothing but a miracle, said Gen. Harrison's attorney-general, can feed the swarm of hungry office-seekers.

Adopted by both parties, Mr. Marcy's doctrine, that all places in the public service are the proper spoils of a victorious party, was accepted as a necessary condition of popular government. One of the highest officers of the government expounded this doctrine to me long afterward: "I believe," said he, "that when the people vote to change a party administration they vote to change every person of the opposite party who holds a place, from the President of the United States to the messenger at my door." It is this extraordinary but sincere misconception of the function of party in a free government that leads to the serious defence of the spoils system. Now a party is merely a voluntary association of citizens to secure the enforcement of a certain policy of administration upon which they are agreed. In a free government this is done by the election of legislators and of certain executive officers who are friendly to that policy. But the duty of the great body of persons employed in the minor administrative places is in no sense political. It is wholly ministerial, and the political opinions of such persons no more affect the discharge of their duties than their religious views or their literary preferences. All that can be justly required of such persons, in the interest of the public business, is honesty, intelligence, capacity, industry, and due subordination; and to say that when the policy of the government is changed by the result of an election from protection to free trade, every bookkeeper, and letter-carrier, and messenger, and porter in the public offices ought to be a free-trader, is as wise as to say that if a merchant is a Baptist every clerk in his office ought to be a believer in total immersion. Yet the officer of whom I spoke undoubtedly expressed the general feeling. The necessary evil consequences of the practice which he justified seemed to be still speculative and inferential, and to the national indifference which followed the war the demand of Mr. Jenckes for reform appeared to be be a mere whimsical vagary, most inopportunely introduced.

It was, however, soon evident that the war had made the necessity of reform imperative, and chiefly for two reasons; first, the enormous increase of patronage, and second, the fact that circumstances had largely identified a party name with patriotism. The great and radical evil of the spoils system was carefully fostered by the apparent absolute necessity to the public welfare of making political opinion and sympathy a condition of appointment to the smallest place. It is since the war, therefore, that the evil has run riot, and that its consequences have been fully revealed Those consequences are now familiar and I shall not describe them. It is enough that the most patriotic and intelligent Americans and the most competent foreign observers agree that the direct and logical results of that system are the dangerous confusion of the executive and the legislative powers of the government; the conversion of politics into mere place-hunting; the extension of the mischief to state and county and city administration, and the consequent degradation of the national character; the practical disfranchisement of the people wherever the system is most powerful; and the perversion of a republic of equal citizens into a despotism of venal politicians. These are the greatest dangers that can threaten a republic, and they are due to the practice of treating the vast system of minor public places which are wholly ministerial, and whose duties are the same under every party administration, not as public trusts but as party perquisites. The English-speaking race has a grim sense of humor, and the absurdity of transacting the public business of a great nation in a way which would ruin both the trade and the character of a small huckster, of proceeding upon the theory — for such is the theory of the spoils system — that a man should be put in charge of a locomotive because he holds certain views of original sin, or because he polishes boots nimbly with his tongue, — is a folly so stupendous and grotesque that when it is fully perceived by the shrewd mother wit of the Yankee it will be laughed indignantly and contemptuously away. But the laugh must have the method, and the indignation the form of law; and now that the public mind is aroused to the true nature and tendency of the spoils system is the time to consider the praticable legal remedy for them.

The whole system of appointments in the civil service proceeds from the president, and in regard to his action the intention of the constitution is indisputable. It is that the president shall appoint

solely upon public considerations, and that the officer appointed shall serve as long as he discharges his duty faithfully. This is shown in Mr. Jefferson's familiar phrase in his reply to the remonstrance of the merchants of New Haven against the removal of the collector at that port. Mr. Jefferson asserted that Mr. Adams had purposely appointed in the last moments of his administration officers whose designation he should have left to his successor. Alluding to these appointments he says: "I shall correct the procedure, and, that done, return with joy to that state of things when the only question concerning a candidate shall be, — is he honest, is he capable, is he faithful to the constitution?" Mr. Jefferson here recognizes that these had been the considerations which had usually determined appointments; and Mr. Madison in the debate upon the president's sole power of removal declared that if a president should remove an officer for any reason not connected with efficient service, he would be impeached. Reform, therefore, is merely a return to the principle and purpose of the constitution, and to the practice of the early administrations.

What more is necessary, then, for reform than that the president should return to that practice? As all places in the civil service are filled either by his direct nomination or by officers whom he appoints, why has not any president ample constitutional authority to effect at any moment a complete and thorough reform? The answer is simple. He has the power. He has always had it. A president has only to do as Washington did, and all his successors have only to do likewise, and reform would be complete. Every president has but to refuse to remove non-political officers for political or personal reasons; to appoint only those whom he knows to be competent; to renominate as Monroe and John Quincy Adams did, every faithful officer whose commission expires, and to require the heads of departments and all inferior appointing officers to conform to this practice, and the work would be done. This is apparently a short and easy and constitutional method of reform requiring no further legislation or scheme of procedure. But why has no president adopted it? For the same reason that the best of popes does not reform the abuses of his church. For the same reason that a leaf goes over Niagara. It is because the opposing forces are overpowering. The same high officer of the government to whom I have alluded said to me as we drove upon the heights of Washington, "Do you mean that I ought not to appoint my sub-

ordinates for whom I am responsible?" I answered: "I mean that you do not appoint them now; I mean that if when we return to the capital you hear that your chief subordinate is dead, you will not appoint his successor. You will have to choose among the men urged upon you by certain powerful politicians. Undoubtedly you ought to appoint the man whom you believe to be the most fit. But you do not and cannot. If you could or did appoint such men only, and that were the rule of your department and of the service, there would be no need of reform." And he could not deny it. There was no law to prevent his selection of the best man. Indeed, the law assumed that he would do it. The constitution intended that he should do it. But when I reminded him that there were forces beyond the law that paralyzed the intention of the constitution, and which would inevitably compel him to accept the choice of others, he said no more.

It is easy to assert that the reform of the civil service is an executive reform. So it is. But the executive alone cannot accomplish it. The abuses are now completely and aggressively organized, and the sturdiest president would quail before them. The president who should undertake, single-handed, to deal with the complication of administrative evils, known as the spoils system, would find his party leaders in Congress and their retainers throughout the country arrayed against him; the proposal to disregard traditions and practices which are regarded as essential to the very existence and effectiveness of party organization, would be stigmatized as treachery, and the president himself would be covered with odium as a traitor. The air would hum with denunciation. The measures he should favor, the appointments he might make, the recommendations of his secretaries, would be opposed and imperilled, and the success of his administration would be endangered. A president who should alone undertake thoroughly to reform the evil must feel it to be the vital and paramount issue, and must be willing to hazard everything for its success. He must have the absolute faith and the indomitable will of Luther. "Here stand I; I can no other." How can we expect a president whom this system elects to devote himself to its destruction? Gen. Grant, elected by a spontaneous patriotic impulse, fresh from the regulated order of military life, and new to politics and politicians, saw the reason and the necessity of reform. The hero of a victorious war, at the height of his popularity, his party in undisputed and seem-

ingly indisputable supremacy, made the attempt. Congress, good-naturedly tolerating what it considered his whim of inexperience, granted money to try an experiment. The adverse pressure was tremendous. "I am used to pressure," smiled the soldier. So he was, but not to this pressure. He was driven by unknown and incalculable currents. He was enveloped in whirlwinds of sophistry, scorn and incredulity. He who upon his own line had fought it out all summer to victory, upon a line absolutely new and unknown, was naturally bewildered and dismayed. So Wellington had drawn the lines of victory on the Spanish peninsula and had saved Europe at Waterloo. Bnt even Wellington at Waterloo could not be also Sir Robert Peel at Westminister. Even Wellington, who had overthrown Napoleon in the field, could not be also the parliamentary hero who for the welfare of his country would dare to risk the overthrow of his party. When at last President Grant said, "If Congress adjourns without positive legislation on civil service reform, I will regard such action as a disapproval of the system and will abandon it," it was, indeed, a surrender, but it was the surrender of a champion who had honestly mistaken both the nature and the strength of the adversary and his own power of endurance.

It is not, then, reasonable, under the conditions of our government and in the actual situation, to expect a president to go much faster or much further than public opinion. But executive action can aid most effectively the development and movement of that opinion, and the most decisive reform measures that the present administration might take would be undoubtedly supported by a powerful public sentiment. The educative results of resolute executive action, however limited and incomplete in scope, have been shown in the two great public offices of which I have spoken, the New York custom-house and the New York post-office. For nearly three years the entire practicability of reform has been demonstrated in those offices, and solely by the direction of the president. The value of such demonstrations due to the executive will alone, carried into effect by thoroughly trained and interested subordinates, cannot be overestimated. But when they depend upon the will of a transient officer and not upon a strong public conviction, they are seeds that have no depth of soil. A vital and enduring reform in administrative methods, although it be but a return to the constitutional intention, can be accomplished only by the commanding im-

pulse of public opinion. Permanence is secured by law, not by individual pleasure. But in this country law is only formulated public opinion. Reform of the civil service does not contemplate an invasion of the constitutional prerogative of the president and the Senate, nor does it propose to change the constitution by statute. The whole system of the civil service proceeds, as I said, from the president, and the object of the reform movement is to enable him to fulfil the intention of the constitution by revealing to him the desire of the country through the action of its authorized representatives. When the ground-swell of public opinion lifts Congress from the rocks the president will gladly float with it into the deep water of wise and patriotic action. The president, indeed, has never been the chief sinner in the spoils system, although he has been the chief agent. Even President Jackson yielded to party pressure as much as to his own convictions. President Harrison sincerely wished to stay the flood, but it swept him away. President Grant doubtfully and with good intentions tested the pressure before yielding. President Hayes, with sturdy independence, adhered inflexibly to a few points, but his party chiefs cursed and derided him. President Garfield — God bless and restore him! — frankly declares permanent and effective reform to be impossible without the consent of Congress. When, therefore, Congress obeys a commanding public opinion, and reflects it in legislation, it will restore to the president the untrammelled exercise of his ample constitutional powers according to the constitutional intention,—and the practical question of reform is how it shall be done.

Now it is easy to kill weeds if we can destroy their roots, and it is not difficult to determine what the principle of reform legislation should be if we can agree upon the source of the abuses to be reformed. May they not have a common origin? In fact, are they not all bound together as parts of one system? The representative in Congress, for instance, does not ask whether the interests of the public service require this removal or that appointment, but whether, directly or indirectly, they will best serve his own interests. The senator acts from the same motives. The president, in turn, balances between the personal interests of leading politicians; president, senators and representatives all wishing to pay for personal service and to conciliate personal influence. So also the party labor required of the place-holder, the task of carrying caucuses, of defeating one man and electing another, as may be ordered; the

payment of the assessment levied upon his salary, all these are the price of the place. They are the taxes paid as conditions of receiving a personal favor. Thus the abuses have a common source, whatever may be the plea for the system from which they spring. Whether it be urged that the system is essential to party organization, or that the desire for place is a laudable political ambition, or that the spoils system is a logical development of our political philosophy, or that new brooms sweep clean, or that any other system is un-American; whatever the form of the plea for abuse, the conclusion is always the same, that the minor places in the civil service are not public trusts, but rewards and prizes for personal and political favorites.

The root of the complex evil, then, is personal favoritism. This produces congressional dictation, senatorial usurpation, arbitrary removals, interference in elections, political assessments and all the consequent corruption, degradation and danger that experience has disclosed. The method of reform therefore must be a plan of selection for appointment which makes favoritism impossible. The general feeling undoubtedly is that this can be accomplished by a fixed limited term. But the terms of most of the offices to which the president and the Senate appoint, and upon which the myriad minor places in the service depend, have been fixed and limited for sixty years, yet it is during that very period that the chief evils of personal patronage have appeared. The law of 1820, which limited the term of important revenue offices to four years, and which was afterward extended to other offices, was intended, as John Quincy Adams tells us, to promote the election to the presidency of Mr. Crawford, who was then secretary of the treasury. The law was drawn by Mr. Crawford himself, and it was introduced into the Senate by one of his devoted partisans. It placed the whole body of executive financial officers at the mercy of the secretary of the treasury and of a majority of the Senate, and its design, as Mr. Adams says, "was to secure for Mr. Crawford the influence of all the incumbents in office, at the peril of displacement, and of five or ten times an equal number of ravenous office-seekers, eager to supplant them." This is the very substance of the spoils system, intentionally introduced by a fixed limitation of term in place of the constitutional tenure of efficient service; and it was so far successful that it made the custom-house officers, district attorneys, marshals, registers of the land-office, receivers of public money and even

paymasters in the army, notoriously active partisans of Mr. Crawford. Mr. Benton says that the four-years' law merely made the dismissal of faithful officers easier, because the expiration of the term was regarded as "the creation of a vacancy to be filled by new appointments." A fixed limited term for the chief offices has not destroyed or modified personal influence, but on the contrary it has fostered universal servility and loss of self-respect because re-appointment depends not upon official fidelity and efficiency, but upon personal influence and favor. To fix by law the terms of places dependent upon such offices would be an attempt to cure hydrophobia by the bite of a mad dog. The incumbent would be always busy keeping his influence in repair to secure re-appointment, and the applicant would be equally busy in seeking such influence to procure the place; and as the fixed terms would be constantly expiring, the eager and angry intrigue and contest of influence would be as endless as it is now. This certainly would not be reform.

But, would not reform be secured by adding to a fixed limited term, the safeguard of removal for cause only? Removal for cause alone means of course, removal for legitimate cause, such as dishonesty, negligence, or incapacity. But who shall decide that such cause exists? This must be determined either by the responsible superior officer or by some other authority. But if left to some other authority the right of counsel and the forms of a court would be invoked: the whole legal machinery of mandamuses, injunctions, certioraris and the rules of evidence would be put in play to keep an incompetent clerk at his desk, or a sleepy watchman on his beat. Cause for the removal of a letter-carrier in the post-office, or of an accountant in the custom-house would be presented with all the pomp of impeachment, and established like a high crime and misdemeanor. Thus every clerk in every office would have a kind of vested interest in his place because, however careless, slovenly or troublesome he might be, he could be displaced only by an elaborate and doubtful legal process. Moreover, if the head of a bureau, or a collector, or a postmaster were obliged to prove negligence or insolence, or incompetency against a clerk as he would prove theft, there would be no removals from the public service except for crimes of which the penal law takes cognizance. Consequently, removal would be always and justly regarded as a stigma upon character, and a man removed from a position in a

public office would be virtually branded as a convicted criminal. Removal for cause, therefore, if the cause were to be decided by any authority but that of the responsible superior officer, instead of improving, would swiftly and enormously enhance the cost and ruin the efficiency of the public service, by destroying subordination, and making every lazy and worthless member of it twice as careless and incompetent as he is now.

If, then, legitimate cause for removal ought to be determined in public as in private business by the responsible appointing power, it is of the highest public necessity that the exercise of that power should be made as absolutely honest and independent as possible. But how can it be made honest and independent if it is not protected, as far as practicable, from the constant bribery of selfish interest and the illicit solicitation of personal influence? The experience of our large public patronage offices proves conclusively that the cause of the larger number of removals is not dishonesty or incompetency; it is the desire to make vacancies to fill. This is the actual cause, whatever cause may be assigned. The Congressional Investigating Committee in 1866, reported that of the 903 officers employed in the New York custom-house, the collector had removed 830 during his three years of service, and his successor made 570 removals in sixteen months. These removals were made simply in order to gratify influential politicians who wished places for their henchmen. Here we have the whole secret of arbitrary removals. They would not be made except for the pressure of politicians. But those politicians would not press for removals if they could not secure the appointment of their favorites. Make it impossible for them to secure appointment, and the pressure would instantly disappear, and arbitrary removal cease.

So long, therefore, as we permit minor appointments to be made by mere personal influence and favor, a fixed limited term and removal during that term for cause only, would not remedy the evil, because the incumbents would still be seeking influence to secure re-appointment, and the aspirants doing the same to replace them. Removal under plea of good cause would be as wanton and arbitrary as it is now, unless the power to remove were intrusted to some other discretion than that of the superior officer, and in that case the struggle for re-appointment, and the knowledge that removal for the term was practically impossible, would totally demoralize the service. To make sure, then, that removals shall

be made for legitimate cause only, we must provide that appointment shall be made only for legitimate cause.

All roads lead to Rome. Personal influence in appointments can be annulled only by free and open competition. By that bridge we can return to the practice of Washington and to the intention of the constitution. That is the shoe of swiftness, and the magic sword by which the president can pierce and outrun the protean enemy of sophistry and tradition which prevents him from asserting his power. If you say that success in a competitive literary examination does not prove fitness to adjust customs duties, or to distribute letters, or to appraise linen, or to measure molasses, I answer that the reform does not propose that fitness shall be proved by a competitive literary examination. It proposes first to annul personal influence and political favoritism by making appointment depend upon proved capacity. To determine this, it proposes to test the comparative general intelligence of all applicants, and their special knowledge of the particular official duties required, and then to prove the practical faculty of the most intelligent applicants by actual trial in the performance of the duties before they are appointed. If it be still said that success in such a competition may not prove fitness, it is enough to reply that success in obtaining the favor of some kind of boss, which is the present system, presumptively proves unfitness.

Nor is it any objection to the reformed system that many efficient officers in the service could not have entered it had it been necessary to pass an examination; it is no objection, because their efficiency is a mere chance. They were not appointed because of efficiency, but either because they were diligent politicians, or because they were recommended by diligent politicians. The chance of getting efficient men in any business is certainly not diminished by inquiry and investigation. I have heard an officer in the army say that he could select men from the ranks for special duty much more satisfactorily than they could be selected by an examination. Undoubtedly he could, because he knows his men and he selects solely by his knowledge of their comparative fitness. If this were true of the civil service—if every appointing officer chose the fittest person from those that he knew, there would be no need of reform. It is because he cannot do this that the reform is necessary.

It is the same kind of objection which alleges that competition is a droll plan by which to restore the conduct of the public business

to business principles and methods, since no private business selects its agents by competition. But the managers of private business are virtually free from personal influence in selecting their subordinates, and they employ and promote and dismiss them solely for the interests of the business. Their choice, however, is determined by an actual, although not a formal competition. Like the military officer, they select those whom they know by experience to be the most competent. But if great business houses and corporations were exposed to the persistent, insolent, and overpowering interference and solicitation for place which obstructs great public departments and officers, they too would resort to the form of competition as they now have its substance, and they would resort to it to secure the very freedom which they now enjoy of selecting for fitness alone.

Mr. President, in the old Arabian story, from the little box upon the sea shore, carelessly opened by the fisherman, arose the towering and haughty demon, ever more monstrous and more threatening, who would not crouch again. So from the small patronage of the earlier day, from a civil service dealing with a national revenue of only two million dollars, and regulated upon sound business principles, has sprung the un-American, un-Democratic, un-Republican system, which destroys political independence, honor and morality, and corrodes the national character itself. In the solemn anxiety of this hour, the warning words of the austere Calhoun, uttered nearly half a century ago, echo in startled recollection like words of doom: "If you do not put this thing down it will put you down." Happily, it is the historic faith of the race from which we are chiefly sprung, that eternal vigilance is the price of liberty. It is that faith which has made our mother England the great parent of free States. It is the same faith which has made America the political hope of the world. Fortunately removed by our position from the entanglements of European politics, and more united and peaceful at home than at any time within the memory of living men, the moment is most auspicious for remedying that abuse in our political system, whose nature, proportions, and perils the whole country begins clearly to discern. The will and the power to apply the remedy will be a test of the sagacity and the energy of the people. The reform of which I have spoken is essentially the people's reform. With the instinct of robbers who run with the crowd and lustily cry, "Stop thief!"

those who would make the public service the monopoly of a few favorites, denounce the determination to open that service to the whole people as a plan to establish an aristocracy. The huge ogre of patronage gnawing at the character, the honor and the life of the country grimly sneers that the people cannot help themselves, and that nothing can be done. But much greater things have been done. Slavery was the Giant Despair of many good men of the last generation, but slavery was overthrown. If the spoils system, a monster only less threatening than slavery, be unconquerable, it is because the country has lost its convictions, its courage, and its common sense. "I expect," said the Yankee as he surveyed a stout antagonist, "I expect that you're pretty ugly, but I cal'late I'm a darn sight uglier." I know that patronage is strong, but I believe that the American people are very much stronger.

THE AMERICAN NEWSPAPER.

BY CHARLES DUDLEY WARNER.

[An Address Delivered Tuesday Evening, September 6th.]

The newspaper is a private enterprise. Its object is to make money for its owner. Whatever motive may be given out for starting a newspaper, expectation of profit by it is the real one, whether the newspaper is religious, political, scientific, or literary. The exceptional cases of newspapers devoted to ideas or "causes" without regard to profit, are so few as not to affect the rule. Commonly the cause, the sect, the party, the trade, the delusion, the idea, gets its newspaper, its organ, its advocate, only when some individual thinks he can see a pecuniary return in establishing it.

This motive is not lower than that which leads people into any other occupation or profession. To make a living and to have a career is the original incentive in all cases. Even in purely philanthropic enterprises the driving-wheel that keeps them in motion for any length of time is the salary paid the working members. So powerful is this incentive that sometimes the wheel will continue to turn round when there is no grist to grind. It sometimes happens that the friction of the philanthropic machinery is so great that but very little power is transmitted to the object for which the machinery was made. I knew a devoted agent of the American Colonization Society who for several years collected in Connecticut just enough, for the cause, to buy his clothes and pay his board at a good hotel.

If the excellence of a newspaper is not always measured by its profitableness, it is generally true that if it does not pay its owner it is valueless to the public. Not all newspapers which make money are good, for some succeed by catering to the lowest tastes of respectable people, and to the prejudice, ignorance, and passion of the lowest class; but as a rule the successful journal pecuniarily is the best journal. The reasons for this are on the surface. The impecunious newspaper cannot give its readers promptly the news, nor able discussion of the news, and, still worse, it cannot be independent. The political journal that relies for support upon drippings of party favor or patronage; the general newspaper that

finds it necessary to existence to manipulate stock reports; the religious weekly that draws precarious support from puffing doubtful enterprises; the literary paper that depends upon the approval of publishers, are poor affairs, and in the long run or short run come to grief. Some newspapers do succeed by sensationalism, as some preachers do; by a kind of quackery, as some doctors do; by trimming and shifting to any momentary popular prejudice, as some politicians do; by becoming the paid advocate of a personal ambition or a corporate enterprise, as some lawyers do; but the newspaper only becomes a real power when it is able, on the basis of pecuniary independence, to free itself from all such entanglements. An editor who stands with hat in hand has the respect accorded to any other beggar.

The recognition of the fact that the newspaper is a private and purely business enterprise will help to define the mutual relations of the editor and the public. His claim upon the public is exactly that of any manufacturer or dealer. It is that of the man who makes cloth or the grocer who opens a shop; neither has a right to complain if the public does not buy of him. If the buyer does not like a cloth half shoddy or coffee half chickory, he will go elsewhere. If the subscriber does not like one newspaper he takes another, or none. The appeal for newspaper support on the ground that such a journal ought to be sustained by an enlightened community, or on any ground than that it is a good article that people want — or would want if they knew its value—is purely childish, in this age of the world. If any person wants to start a periodical devoted to decorated teapots, with the noble view of inducing the people to live up to his idea of a teapot, very good; but he has no right to complain if he fails.

On the other hand, the public has no rights in the newspaper, except what it pays for; even the "old subscriber" has none except to drop the paper if it ceases to please him. The notion that the subscriber has a right to interfere in the conduct of the paper, or the reader to direct its opinions, is based on a misconception of what the newspaper is. The claim of the public to have its communications printed in the paper is equally baseless. Whether they shall be printed or not rests in the discretion of the editor, having reference to his own private interest and to his apprehension of the public good. Nor is he bound to give any reason for his refusal. It is purely in his discretion whether he will admit a

reply to anything that has appeared in his columns. No one has a right to demand it. Courtesy and policy may grant it, but the right to it does not exist. If any one is injured he may seek his remedy at law; and I should like to see the law of libel such, and so administered, that any person injured by a libel in the newspaper, as well as by slander out of it, could be sure of prompt redress. While the subscriber acquires no right to dictate to the newspaper, we can imagine an extreme case when he should have his money back, which had been paid in advance, if the newspaper totally changed its character. If he had contracted with a dealer to supply him with hard coal during the winter, he might have a remedy if the dealer delivered only charcoal in the coldest weather; and so if he paid for a Roman Catholic journal which suddenly became an organ of the spiritists.

The advertiser acquires no more rights in the newspaper than the subscriber. He is entitled to use the space for which he pays, by the insertion of such material as is approved by the editor. He gains no interest in any other part of the paper, and has no more claim to any space in the editorial columns than any other one of the public. To give him such space would be unbusiness-like, and the extension of a preference which would be unjust to the rest of the public. Nothing more quickly destroys the character of a journal, begets distrust of it, and so reduces its value, than the well-founded suspicion that its editorial columns are the property of advertisers. Even a religious journal will, after a while, be injured by this.

Yet it must be confessed that here is one of the greatest difficulties of modern journalism. The newspaper must be cheap. It is, considering the immense cost to produce it, the cheapest product ever offered to man. Most newspapers cost more than they sell for; they could not live by subscriptions; for any profits they certainly depend upon advertisements. The advertisements depend upon the circulation; the circulation is likely to dwindle if too much space is occupied by advertisements, or if it is evident that the paper belongs to its favored advertisers. The counting-room desires to conciliate the advertisers; the editor looks to making a paper satisfactory to his readers. Between this see-saw of the necessary subscriber and the necessary advertiser, a good many newspapers go down. This difficulty would be measurably removed by the admission of the truth that the newspaper is a strictly business

enterprise, depending for success upon a *quid pro quo* between all parties connected with it, and upon integrity in its management.

Akin to the false notion that the newspaper is a sort of open channel that the public may use as it chooses, is the conception of it as a charitable institution. The newspaper, which is the property of a private person, as much as a drug-shop is, is expected to perform for nothing services which would be asked of no other private person. There is scarcely a charitable enterprise to which it is not asked to contribute of its space, which is money, ten times more than other persons in the community, who are ten times as able as the owner of the newspaper, contribute. The journal is considered "mean" if it will not surrender its columns freely to notices and announcements of this sort. If a manager has a new hen-coop or a new singer he wishes to introduce to the public, he comes to the newspaper, expecting to have his enterprise extolled for nothing, and probably never thinks that it would be just as proper for him to go to one of the regular advertisers in the paper and ask him to give up his space. Anything from a church picnic to a brass-band concert for the benefit of the widow of the triangles, asks the newspaper to contribute. The party in politics, whose principles the editor advocates, has no doubt of its rightful claim upon him, not only upon the editorial columns but upon the whole newspaper. It asks without hesitation that the newspaper should take up its valuable space by printing hundreds and often thousands of dollars' worth of political announcements in the course of a protracted campaign, when it never would think of getting its halls, its speakers, and its brass-bands, free of expense. Churches as well as parties expect this sort of charity. I have known rich churches, to whose members it was a convenience to have its Sunday and other services announced, withdraw the announcements when the editor declined any longer to contribute a weekly fifty cents' worth of space. No private person contributes so much to charity, in proportion to ability, as the newspaper. Perhaps it will get credit for this in the next world; it certainly never does in this.

The chief function of the newspaper is to collect and print the news. Upon the kind of news that should be gathered and published, we shall remark further on. The second function is to elucidate the news, and comment on it, and show its relations. A third function is to furnish reading matter to the general public.

Nothing is so difficult for the manager as to know what news is; the instinct for it is a sort of sixth sense. To discern out of the mass of materials collected, not only what is most likely to interest the public, but what phase and aspect of it will attract most attention, and the relative importance of it; to tell the day before or at midnight what the world will be talking about in the morning, and what it will want the fullest details of, and to meet that want in advance, requires a peculiar talent. There is always some topic on which the public wants instant information. It is easy enough, when the news is developed and everybody is discussing it, for the editor to fall in. But the success of the news printed depends upon a pre-apprehension of all this. Some papers, which, nevertheless, print all the news, are always a day behind, do not appreciate the popular drift till it has gone to something else, and err as much by clinging to a subject after it is dead as by not taking it up before it was fairly born. The public craves eagerly for only one thing at a time, and soon wearies of that; and it is to the newspaper's profit to seize the exact point of a debate, the thrilling moment of an accident, the pith of an important discourse, to throw itself into it as if life depended on it, and for the hour to flood the popular curiosity with it as an engine deluges a fire.

Scarcely less important than promptly seizing and printing the news, is the attractive arrangement of it, its effective presentation to the eye. Two papers may have exactly the same important intelligence, identically the same dispatches; the one will be called bright, attractive, "newsy," the other dull and stupid.

We have said nothing yet about that which, to most people, is the most important aspect of the newspaper, the editor's responsibility to the public for its contents. It is sufficient briefly to say, here, that it is exactly the responsibility of every other person in society — the full responsibility of his opportunity. He has voluntarily taken a position in which he can do a great deal of good or a great deal of evil, and he should be held and judged by his opportunity. It is greater than that of the preacher, the teacher, the congressman, the physician. He occupies the loftiest pulpit; he is in his teacher's desk seven days in the week; his voice can be heard further than that of the most lusty fog-horn politician; and often, I am sorry to say, his columns outshine the shelves of the druggist in display of proprietary medicines. Nothing else ever invented has the public attention as the newspaper has, or is

an influence so constant and universal. It is this large opportunity that has given the impression that the newspaper is a public rather than a private enterprise.

It was a nebulous, but suggestive, remark that the newspaper occupies the border land between literature and common sense, Literature it certainly is not, and in the popular apprehension it seems often too erratic and variable to be credited with the balance-wheel of sense; but it must have something of the charm of the one and the steadiness and sagacity of the other, or it will fail to please. The model editor, I believe, has yet to appear. Notwithstanding the traditional reputation of certain editors in the past, they could not be called great editors by our standards, for the elements of modern journalism did not exist in their time. The old newspaper was a stale broadside of news with a moral essay attached. Perhaps Benjamin Franklin, with our facilities, would have been very near the ideal editor. There was nothing he did not wish to know, and no one excelled him in the ability to communicate what he found out to the average mind. He came as near as anybody ever did to marrying common-sense to literature. He had it in him to make it sufficient for journalistic purposes. He was what somebody said Carlyle was, and what the American editor ought to be, a vernacular man.

The assertion has been made recently, publicly and with evidence adduced, that the American newspaper is the best in the world. It is like the assertion that the American government is the best in the world; no doubt it is, for the American people.

Judged by broad standards, it may safely be admitted that the American newspaper is susceptible of some improvement, and that it has something to learn from the journals of other nations. We shall be better employed in correcting its weaknesses than in complacently contemplating its excellences.

Let us examine it in its three departments already named, its news, editorials, and miscellaneous reading matter.

In particularity and comprehensivenes of news-collecting, it may be admitted that the American newspapers for a time led the world. I mean in the picking up of local intelligence and the use of the telegraph to make it general. And with this arose the odd notion that news is made important by the mere fact of its rapid transmission over the wire. The English journals followed, speedily overtook, and, some of the wealthier ones perhaps, surpassed

the American in the use of the telegraph and in the presentation of some sorts of local news; not of casualties, and small city and neighborhood events and social gossip (until very recently), but certainly in the business of the law courts, and the crimes and mishaps that come within police and legal supervision. The leading papers of the German press, though strong in correspondence and in discussion of affairs, are far less comprehensive in their news than the American or the English. The French journals, we are accustomed to say, are not newspapers at all. And this is true, as we use the word. Until recently nothing has been of importance to the Frenchman except himself; and what happened outside of France, not directly affecting his glory, his profit, or his pleasure, did not interest him. Hence, one could nowhere so securely entrench himself against the news of the world as behind the barricade of the Paris journals. But let us not make a mistake in this matter. We may have more to learn from the Paris journals than from any others. If they do not give what we call news, local news, events, casualties, the happenings of the day, they do give ideas, opinions; they do discuss politics, the social drift; they give the intellectual ferment of Paris; they supply the material that Paris likes to talk over, the badinage of the boulevard, the wit of the salon, the sensation of the stage, the new movement in literature and in politics. This may be important, or it may be trivial; it is commonly more interesting than much of what we call news.

Our very facility and enterprise in news-gathering have overwhelmed our newspapers, and it may be remarked that editorial discrimination has not kept pace with the facilities. We are overpowered with a mass of undigested intelligence, collected, for the most part, without regard to value. The force of the newspaper is expended in extending these facilities, with little regard to discriminating selection. The burden is already too heavy for the newspaper and wearisome to the public.

The publication of the news is the most important function of the paper. How is it gathered? We must confess that it is gathered very much by chance. A drag-net is thrown out, and whatever comes is taken. An examination into the process of collecting shows what sort of news we are likely to get, and that nine-tenths of that printed is collected without much intelligence exercised in selection. The alliance of the Associated Press with

the telegraph company is a fruitful source of news of an inferior quality. Of course it is for the interest of the telegraph company to swell the volume to be transmitted. It is impossible for the Associated Press to have an agent in every place to which the telegraph penetrates. Therefore the telegraphic operators often act as its purveyors. It is for their interest to send something, and their judgment of what is important is not only biased, but is formed by purely local standards. Our news, therefore, is largely set in motion by telegraphic operators, by agents trained to regard only the accidental, the startling, the abnormal, as news; it is picked up by sharp prowlers about town, whose pay depends upon finding something, who are looking for something spicy and sensational, or which may be dressed up and exaggerated to satisfy an appetite for novelty and high flavor, and who regard casualties as the chief news. Our newspapers every day are loaded with accidents, casualties, and crimes, concerning people of whom we never heard before and never shall hear again, the reading of which is of no earthly use to any human being.

What is news? What is it that an intelligent public should care to hear of and talk about? Run your eye down the columns of your journal. There was a drunken squabble last night in a New York groggery; there is a petty, but carefully elaborated, village scandal about a foolish girl; a woman accidentally dropped her baby out of a fourth-story window in Maine; in Connecticut a wife, by mistake, got into the same railway train with another woman's husband; a child fell into a well in New Jersey; there is a column about a peripatetic horse race which exhibits, like a circus, from city to city; a laborer in a remote town in Pennsylvania had a sunstroke; there is the edifying dying speech of a murderer, the love-letter of a suicide, the set-to of a couple of congressmen, and there are columns about the gigantic war of half a dozen politicians over the appointment of a sugar gauger. Granted that this pabulum is desired by the reader, why not save the expense of transmission by having several columns of it stereotyped, to be reproduced at proper intervals? With the date changed it would always have its original value and perfectly satisfy the demand, if a demand exists, for this sort of news.

This is not, as you see, a description of your journal; it is a description of only one portion of it. It is a complex and wonderful creation. Every morning it is a mirror of the world, more

or less distorted and imperfect, but such a mirror as it never had held up to it before. But consider how much space is taken up with mere trivialities and vulgarities, under the name of news. And this evil is likely to continue and increase until news-gatherers learn that more important than the reports of accidents and casualties, is the intelligence of opinions and thoughts, the moral and intellectual movements of modern life. A horrible assassination in India is instantly telegraphed; but the progress of such a vast movement as that of the Wahabee revival in Islam, which may change the destiny of great provinces, never gets itself put upon the wires. We hear promptly of a land-slide in Switzerland, but only very slowly of a political agitation that is changing the constitution of the republic. It should be said, however, that the daily newspaper is not alone responsible for this. It is what the age and the community where it is published make it. So far as I have observed, the majority of the readers in America peruse eagerly three columns about a mill between an English and a naturalized American prize-fighter, but will only glance at a column report of a debate in the English parliament which involves a radical change in the whole policy of England; and devours a page about the Chantilly races, while it ignores a paragraph concerning the suppression of the Jesuit schools.

Our newspapers are overwhelmed with material that is of no importance. The obvious remedy for this would be more intelligent direction in the collection of news, and more careful sifting and supervision of it when gathered. It becomes every day more apparent to every manager that such discrimination is more necessary. There is no limit to the various intelligence and gossip that our complex life offers; no paper is big enough to contain it; no reader has time enough to read it. And the journal must cease to be a sort of waste-basket at the end of a telegraph wire, into which any reporter, telegraph operator or gossip-monger can dump whatever he pleases. We must get rid of the superstition that value is given to an unimportant "item" by sending it a thousand miles over a wire.

Perhaps the most striking feature of the American newspaper, especially of the country weekly, is its enormous development of local and neighborhood news. It is of recent date. Horace Greeley used to advise the country editors to give small space to the general news of the world, but to cultivate assiduously the

home field, to glean every possible detail of private life in the circuit of the county and print it. The advice was shrewd for a metropolitan editor, and it was not without its profit to the country editor. It was founded on a deep knowledge of human nature; namely, upon the fact that people read most eagerly that which they already know, if it is about themselves or their neighbors, if it is a report of something they have been concerned in, a lecture they have heard, a fair, or festival, or wedding, or funeral, or barn-raising they have attended. The result is column after column of short paragraphs of gossip and trivialities, chips, chips, chips. Mr. Sales is contemplating erecting a new counter in his store; his rival opposite has a new sign; Miss Bumps of Gath is visiting her cousin, Miss Smith of Bozrah; the sheriff has painted his fence; Farmer Brown has lost a cow; the eminent member from Neopolis has put an ell on one end of his mansion and a mortgage on the other.

On the face of it nothing is so vapid and profitless as column after column of this reading. These "items" have very little interest except to those who already know the facts. But those concerned like to see them in print, and take the newspaper on that account. This sort of inanity takes the place of reading matter that might be of benefit, and its effect must be to belittle and contract the mind. But this is not the most serious objection to the publication of these worthless details. It cultivates self-consciousness in the community, and love of notoriety; it develops vanity and self-importance, and elevates the trivial in life above the essential.

And this brings me to speak of the mania in this age, and especially in America, for notoriety, in social life as well as in politics. The newspapers are the vehicle of it, sometimes the occasion, but not the cause. The newspaper may have fostered, it has not created this hunger for publicity. Almost everybody talks about the violation of decency and the sanctity of private life by the newspaper in the publication of personalities and the gossip of society. And the very people who make these strictures are often those who regard the paper as without enterprise and dull if it does not report in detail their weddings, their balls and parties, the distinguished persons present, the dress of the ladies, the sumptuousness of the entertainment, if it does not celebrate their church services and festivities, their social meetings, their new house, their

distinguished arrivals at this or that watering-place. I believe every newspaper manager will bear me out in saying that there is a constant pressure on him to print much more of such private matter than his judgment and taste permit or approve, and that the gossip which is brought to his notice, with the hope that he will violate the sensitiveness of social life by printing it, is far away larger in amount than all that he publishes.

To return for a moment to the subject of general news. The characteristic of our modern civilization is sensitiveness, or, as the doctors say, nervousness. Perhaps the philanthropists would term it sympathy. No doubt an exciting cause of it is the adaptation of electricity to the transmission of facts and ideas. The telegraph we say has put us in sympathy with all the world. And we reckon this enlargement of nerve contact somehow a gain. Our bared nerves are played upon by a thousand wires. Nature no doubt has a method of hardening or deadening them to these shocks, but nevertheless every person who reads is a focus for the excitements, the ills, the troubles of all the world. In addition to his local pleasures and annoyances, he is in a manner compelled to be a sharer in the universal uneasiness. It might be worth while to inquire what effect this exciting accumulation of the news of the world upon an individual or a community has upon happiness and upon character. Is the New England man any better able to bear or deal with his extraordinary climate by the daily knowledge of the weather all over the globe? Is a man happier or improved in character by the woeful tale of a world's distress and apprehension that greets him every morning at breakfast? Knowledge we know increases sorrow; but I suppose the offset to that is that strength only comes through suffering. But this is a digression.

Not second in importance to any department of the journal is the reporting, that is the special reporting as distinguished from the more general news-gathering. I mean the reports of proceedings in Congress, in conventions, assemblies, and conferences, public conversations, lectures, sermons, investigations, law trials, and occurrences of all sorts that rise into general importance. These reports are the basis of our knowledge and opinions. If they are false or exaggerated we are ignorant of what is taking place, and misled. It is of infinitely more importance that they should be absolutely trustworthy than that the editorial comments should be sound and wise. If the reports on affairs can be depended on, the

public can form its own opinion and act intelligently. And if the public has a right to demand anything of a newspaper it is that its reports of what occurs shall be faithfully accurate, unprejudiced, and colorless. They ought not to be editorials, or the vehicles of personal opinion and feeling. The interpretation of the facts they give should be left to the editor and the public. There should be a sharp line drawn between the report and the editorial.

I am inclined to think that the reporting department is the weakest in the American newspaper, and that there is just ground for the admitted public distrust of it. Too often, if a person would know what has taken place in a given case, he must read the reports in half a dozen journals, then strike a general average of probabilities, allowing for the personal equation, and then — suspend his judgment. Of course there is much excellent reporting, and there are many able men engaged in it who reflect the highest honor upon their occupation. And the press of no other country shows more occasional brilliant feats in reporting than ours. These are on occasions when the newspapers make special efforts. Take the last two national party conventions. The fulness, the accuracy, the vividness with which their proceedings were reported in the leading journals were marvelous triumphs of knowledge, skill, and expense. The conventions were so photographed by hundreds of pens that the public outside saw them almost as distinctly as the crowd in attendance. This result was attained because the editors determined that it should be, sent able men to report, and demanded the best work. But take an opposite and a daily illustration of reporting, that of the debates and proceedings in Congress. I do not refer to the specials of various journals, which are good, bad, or indifferent, as the case may be, and commonly colored by partisan considerations, but the regular synopsis sent to the country at large. Now, for some years it has been inadequate, frequently unintelligible, often grossly misleading, failing wholly to give the real spirit and meaning of the most important discussions. And it is as dry as chips, besides. To be both stupid and inaccurate is the unpardonable sin in journalism. Contrast these reports with the lively and faithful pictures of the French Assembly which are served to the Paris papers.

Before speaking of the reason for the public distrust in reports it is proper to put in one qualification. The public itself, and not the newspapers, is the great factory of baseless rumors and

untruths. Although the newspaper unavoidably gives currency to some of these, it is the great corrector of popular rumors. Concerning any event a hundred different versions and conflicting accounts are instantly set afloat. These would run on and become settled, but unfounded, beliefs, as private whispered scandals do run, if the newspaper did not intervene. It is the business of the newspaper, on every occurrence of moment, to chase down the rumors, and to find out the facts and print them, and set the public mind at rest. The newspaper publishes them under a sense of responsibility for its statements. It is not by any means always correct, but I know that it is the aim of most newspapers to discharge this important public function faithfully. When this country had few newspapers it was ten times more the prey of false reports and delusions than it is now.

Reporting requires as high ability as editorial writing; perhaps of a different kind, though in the history of American journalism the best reporters have often become the best editors. Talent of this kind must be adequately paid, and it happens that in America the reporting field is so vast that few journals can afford to make the reporting department correspond in ability to the editorial, and I doubt if the importance of doing so is yet fully realized. An intelligent and representative synopsis of a lecture or other public performance is rare. The ability to grasp a speaker's meaning, or to follow a long discourse, and to reproduce either in spirit, and fairly, in a short space, is not common. When the public which has been present reads the inaccurate report, it loses confidence in the newspaper.

Its confidence is again undermined when it learns that an "interview" which it has read with interest was manufactured; that the report of the movements and sayings of a distinguished stranger was a pure piece of ingenious invention; that a thrilling adventure along shore, or in a balloon, or in a horse-car, was what is called a sensational article, concocted by some brilliant genius and spun out by the yard, according to his necessities. These reports are entertaining and often more readable than anything else in the newspaper; and if they were put into a department with an appropriate heading, the public would be less suspicious that all the news in the journal was colored and heightened by a lively imagination.

Intelligent and honest reporting of whatever interests the public

is the sound basis of all journalism. And yet so careless have editors been of all this, that a reporter has been sent to attend the sessions of a philological convention who had not the least linguistic knowledge, having always been employed on marine disasters. Another reporter who was assigned to inform the public of the results of a difficult archeological investigation, frankly confessed his inability to understand what was going on, for his ordinary business, he said, was cattle. A story is told of a metropolitan journal, which illustrates another difficulty the public has in keeping up its confidence in newspaper infallibility. It may not be true for history, but answers for an illustration. The annual November meteors were expected on a certain night. The journal prepared an elaborate article, several columns in length, on meteoric displays in general and on the display of that night in particular, giving in detail the appearance of the heavens from the metropolitan roofs in various parts of the city, the shooting of the meteors amid the blazing constellations, the size and times of flight of the fiery bodies, in short, a most vivid and scientific account of the lofty fireworks. Unfortunately, the night was cloudy. The article was in type and ready, but the clouds would not break. The last moment for going to press arrived; there was a probability that the clouds would lift before daylight, and the manager took the risk. The article that appeared was very interesting, but its scientific value was impaired by the fact that the heavens were obscured the whole night, and the meteors, if any arrived, were invisible. The reasonable excuse of the editor would be that he could not control the elements.

If the reporting department needs strengthening and reduction to order in the American journal, we may also query whether the department of correspondence sustains the boast that the American newspaper is the best in the world. We have a good deal of excellent correspondence, both foreign and domestic, and our "specials" have won distinction, at least for liveliness and enterprise. I cannot dwell upon this feature, but I suggest a comparison with the correspondence of some of the German, and with that especially of the London journals, from the various capitals of Europe and from the occasional seats of war. How surpassingly able much of it is, how full of information, of philosophic observation, of accurate knowledge! It appears to be written by men of trained intellect and of experience, educated men of the world,

who by reason of their position and character, have access to the highest sources of information.

The editorials of our journals seem to me better than formerly, improved in tone, in courtesy, in self-respect—though you may not have to go far or search long for the provincial note and the easy grace of the frontier—and they are better written. This is because the newspaper has become more profitable and is able to pay for talent, and has attracted to it educated young men. There is a sort of editorial ability, of facility, of force, that can only be acquired by practice, and in the newspaper office; no school can ever teach it; but the young editor who has a broad basis of general education, of information in history, political economy, the classics and polite literature, has an immense advantage over the man who has merely practical experience. For the editorial, if it is to hold its place, must be more and more the product of information, culture and reflection, as well as of sagacity and alertness. Ignorance of foreign affairs, and of economic science, the American people have in times past winked at, but they will not always wink at it.

It is the belief of some shrewd observers that editorials, the long editorials, are not much read, except by editors themselves. A cynic says that if you have a secret you are very anxious to keep from the female portion of the population, the safest place to put it is in an editorial. It seems to me that editorials are not conned as attentively as they once were, and I am sure they have not so much influence as formerly. People are not so easily or so visibly led. That is to say, the editorial influence is not so dogmatic and direct. The editor does not expect to form public opinion so much by arguments and appeals as by the news he presents, and his manner of presenting it; by the iteration of an idea until it becomes familiar; by the reading matter selected, and by the quotations of opinions as news, and not professedly to influence the reader. And this influence is all the more potent because it is indirect and not perceived by the reader.

There is an editorial tradition — it might almost be termed a superstition — which I think will have to be abandoned. It is that a certain space in the journal must be filled with editorial, and that some of the editorials must be long, without any reference to the news or the necessity of comment on it, or the capacity of the editor at the moment to fill the space with original matter that is

readable. There is the sacred space, and it must be filled. The London journals are perfect types of this custom. The result is often a wearisome page of words and rhetoric. It may be good rhetoric, but life is too short for so much of it. The necessity of filling this space causes the writer, instead of stating his idea in the shortest compass in which it can be made perspicuous and telling, to beat it out thin and make it cover as much ground as possible. This, also, is vanity. In the economy of room, which our journals will more and more be compelled to cultivate, I venture to say that this tradition will be set aside. I think that we may fairly claim a superiority in our journals over the English dailies in our habit of brief, pointed editorial paragraphing. They are the life of the editorial page. A cultivation of these until they are as finished and pregnant as the paragraphs of the London "Spectator" and the New York "Nation," the printing of long editorials only when the elucidation of a subject demands length, and the use of the space thus saved for more interesting reading, is probably the line of our editorial evolution.

To continue the comparison of our journals, as a class, with the English as a class, ours are more lively, also more flippant, and less restrained by a sense of responsibility or by laws of libel. We furnish, now and again, as good editorial writing, for its purpose, but it commonly lacks the dignity, the thoroughness, the wide sweep and knowledge that characterizes the best English discussion of political and social topics.

The third department of the newspaper is that of miscellaneous reading matter. Whether this is the survival of the period when the paper contained little else except "selections," and other printed matter was scarce, or whether it is only the beginning of a development that shall supply the public nearly all its literature, I do not know. Far as our newspapers have already gone in this direction, I am inclined to think that in their evolution they must drop this adjunct, and print simply the news of the day. Some of the leading journals of the world already do this.

In America I am sure the papers are printing too much miscellaneous reading. The perusal of this smattering of everything, these scraps of information and snatches of literature, this infinite variety and medley, in which no subject is adequately treated, is distracting and debilitating to the mind. It prevents the reading of anything in full, and its satisfactory assimilation. It is said that the

majority of Americans read nothing except the paper. If they read that thoroughly, they have time for nothing else. What is its reader to do, when his journal thrusts upon him every day the amount contained in a fair-sized duodecimo volume, and on Sundays the amount of two of them? Granted that this miscellaneous hodge-podge is the cream of current literature, is it profitable to the reader? Is it a means of anything but superficial culture and fragmentary information? Besides, it stimulates an unnatural appetite, a liking for the striking, the brilliant, the sensational only. For our selections from current literature are usually the "plums," and plums are not wholesome diet for anybody. A person accustomed to this finds it difficult to sit down patiently to the mastery of a book, or a subject, to the study of history, the perusal of extended biography, or to acquire that intellectual development and strength which comes from thorough reading and reflection.

The subject has another aspect. Nobody chooses his own reading, and a whole community perusing substantially the same material tends to a mental uniformity. The editor has a more than royal power of selecting the intellectual food of a large public. It is a responsibility infinitely greater than that of the compiler of school books, great as that is. The taste of the editor or of some assistant who uses the scissors is in a manner forced upon thousands of people, who see little other printed matter than that he gives them. Suppose his taste runs to murders and abnormal crimes, and to the sensational in literature. What will be the moral effect upon a community of reading this year after year?

If this excess of daily miscellany is deleterious to the public, I doubt if it will be in the long run profitable to the newspaper, which has a field broad enough in reporting and commenting upon the movement of the world without attempting to absorb the whole reading field.

I should like to say a word, if time permitted, upon the form of the journal, and about advertisements. I look to see advertisements shorter, printed with less display, and more numerous. In addition to the use now made of the newspaper by the classes called "advertisers," I expect it to become the handy medium of the entire public, the means of ready communication in regard to all wants and exchanges.

Several years ago the attention of the publishers of American newspapers was called to the convenient form of certain daily

journals in South Germany, which were made up in small pages, the number of which varied from day to day according to the pressure of news or advertisements. The suggestion as to form has been adopted by many of our religious, literary and special weeklies, to the great convenience of the readers, and I doubt not of the publishers also. Nothing is more unwieldy than our big blanket sheets. They are awkward to handle, inconvenient to read, unhandy to bind and preserve. It is difficult to classify matter in them. In dull seasons they are too large, in times of brisk advertising and in the sudden access of important news they are too small. To enlarge them for the occasion resort is had to a troublesome fly sheet, or if they are doubled, there is more space to be filled than is needed. It seems to me that the inevitable remedy is a newspaper of small pages or forms, indefinite in number, that can at any hour be increased or diminished according to necessity, to be folded, stitched and cut by machinery.

We have thus rapidly run over a prolific field, touching only upon some of the relations of the newspaper to our civilization, and omitting many of the more important and grave. The truth is that the development of the modern journal has been so sudden and marvelous, that its conductors find themselves in possession of a machine that they scarcely know how to manage or direct. The change in the newspaper, caused by the telegraph, and by a public demand for news created by wars, by discoveries, and by a new outburst of the spirit of doubt and inquiry, is enormous. The public mind is confused about it, and alternately over-estimates and under-estimates the press, failing to see how integral and representative a part it is of modern life.

"The power of the press" — as something to be feared or admired — is a favorite theme of dinner-table orators and clergymen. One would think it was some compactly wielded energy, like that of an organized religious order, with a possible danger in it to the public welfare. Discrimination is not made between the power of the printed word — which is limitless — and the influence that a newspaper as such exerts. The power of the press is in its facility for making public opinion and events. I should say it is a medium of force rather than force itself. I confess that I am oftener impressed with the powerlessness of the press than otherwise, its slight influence in bringing about any reform or in inducing the public to do what is for its own good and what it is dis-

nclined to do. Talk about the power of a press, say in a legislature, when once it is suspicious that somebody is trying to influence it, and see how it will retire, with what grace it can, before an invincible and virtuous lobby. The fear of the combination of the press for any improper purpose, or long for any proper purpose, is chimerical. Whoever the newspapers agree with they do not agree with each other. The public itself never takes so many conflicting views of any topic or event as the ingenious rival journals are certain to discover. It is impossible, in their nature, for them to combine. I should as soon expect agreement among doctors in their empirical profession. And there is scarcely ever a cause, or an opinion, or a man, that does not get somewhere in the press a hearer and defender.

We will drop the subject with one remark for the benefit of whom it may concern. With all its faults, I believe the moral tone of the American newspaper is higher, as a rule, than that of the community in which it is published.

PAPERS OF THE JURISPRUDENCE DEPARTMENT.

I. PROHIBITORY LEGISLATION.

READ BEFORE THE AMERICAN SOCIAL SCIENCE ASSOCIATION AT SARATOGA, SEPT. 8, 1881.

By P. Emory Aldrich, of Worcester, Mass.

The announcement for this hour, in the day's proceedings of the Association, is, "A Debate on the Temperance Question," and it has been assigned to the Department of Jurisprudence. The particular topic upon which I have been requested to prepare a paper is Prohibitory Legislation.

This, manifestly, is a question of jurisprudence, or more specifically, a question of practical legislation, demanding a more comprehensive and different discussion than would be required by a debate on the temperance question only. And this is a proper occasion and fit audience for such more general discussion of the subject.

It will be impossible, however, in the thirty minutes allowed me this morning, to present this argument with any satisfactory fulness. I shall, therefore, waste no time upon needless preliminaries.

My exact proposition is, that the manufacture and sale of intoxicating liquor, as a beverage, should be made penal offences. In maintaining this proposition, I accept in its most extended signification Mr. Bentham's maxim, that "to make any act or practice penal which is not the cause of *public* injuries, is to inflict groundless punishment." And I also adopt, as stating a correct principle of penal legislation, the declaration of Becaria, "that all legislation which stops with the punishment of crime, and does not aim to prevent it, is imperfect."

Hence it becomes an essential part of this argument to show, first, that the *traffic* in intoxicating liquors is productive of public

injuries; and, secondly, that the purpose and effect of the prohibitory law is to limit, and so far as possible, to prevent that traffic. It would, I doubt not, be an unjust reflection upon the intelligence and fairness of this audience to suppose there is a single person in it who is not ready to admit, without controversy, that the evils of intemperance are unspeakably great. But this admission does not include all that must be proved to justify the legislation for which I contend. For if these evils, however great, terminate upon the individual, and do not injuriously affect public rights and the public welfare, government would possess no authority to make their producing cause a criminal offence. Nor would any such authority exist to prohibit the traffic if it could be shown, as is so often claimed, that the sole cause of all the evils complained of, is the *use* and not the *sale* of liquors. Now this is a question of fact, which can be determined only by an appeal to the evidence in the case, and can never be properly settled by passionate declamation, or dogmatic assertion on the one side or the other. To the facts and the evidence let us, therefore, turn in the further prosecution of this discussion.

The regulation of the traffic in intoxicating liquors by legislative enactments has prevailed in England more than three hundred years, and in this country from the earliest settlement of the colonies. This legislation has assumed three general forms:

1. The traffic has at times been left nearly free, being subject only to those general rules of law regulating trade in all other articles of domestic commerce.

2. License laws, more or less restrictive, have from time to time been enacted.

3. Legislation has taken the form of absolute prohibition.

This last species of legislation is of modern origin, and has never been adopted in England, and with one or two unimportant exceptions has been tried only in some of the States of our own Union; and here it has been limited in its operation by certain provisions of the Federal Constitution; and moreover, the manufacture and sale of alcoholic liquors, to be used in the arts, have never been interdicted, but on the contrary provided for in every prohibitory statute respecting such manufacture and sale.

The first act of the English parliament regulating the traffic in alcoholic liquors was passed in 1553, and was the first in a long series of license laws, by which parliament, which has been

called omnipotent, has vainly endeavored through the long lapse of more than three centuries to control and limit the enormous evils resulting primarily from that traffic.

The preamble to that act sets forth, in brief, the reasons for all prohibitory legislation on this subject. It reads as follows: "For as much as *intolerable hurts* and *troubles* to the Commonwealth of this realm do daily grow and increase through such abuses and disorders as are had and used in common alehouses and other houses called tippling houses, etc." And from that distant day to the present time there has been a constantly accumulating mass of evidence, showing the invariable and uniform connection as cause and effect, between the common traffic in intoxicating liquors and these intolerable hurts and troubles to the *Commonwealth*.

The limitations under which I speak will enable me to call attention to only a very small part of this overwhelming accumulation of proofs.

And here let me remind those who do me the honor to listen to what I say, that this evidence is offered in support:

1. Of the proposition that the evils complained of are *public*.

2. That their primary cause is the commerce in intoxicating liquors; and

3. That "prohibition" is the most effectual form of legislation to check and prevent those evils by removing their primary cause. As an important and most significant portion of this evidence, there will be found an unbroken uniformity in the testimony of judges who have presided over the criminal courts of England and this country, from the time of Lord Hale, that a very large part of all the crimes these courts have been called upon to deal with, may be traced to intoxicating liquors as their cause.

One of the most notable and comprehensive investigations ever prosecuted as to the causes and effects of intemperance, was made by a committee of the Lower House of Convocation of the Province of Canterbury, a province containing a population of more than 14,000,000 of people. The investigation was thorough, information having been sought from every available source. The conclusion of the committee, upon a careful analysis of the vast mass of evidence was, "that intemperance is the main and prolific source of the criminality which is every year assuming more prominent features, and attaining more audacity in this country, filling our gaols and hulks; and while causing an ever-increasing and

ruinous expenditure in an unavailing effort to overtake it, rendering life and property every day more insecure, and that an enormous proportion of pauperism, which is felt to be such a burden and discouragement by the sober and industrious members of the community, is the direct and common product of intemperance." I am not unmindful of the fact that this committee speak of *intemperance* as the proximate cause of the crime and poverty they deplore, but their report also shows that in nearly one thousand parishes of the province in which liquors were not sold, there crime and poverty to a very large extent disappeared.

It is the traffic in those liquors that constitutes the primary, if not the proximate cause, of these great public evils. An inquiry instituted by the General Assembly of the Church of Scotland in most of the parishes of that country, showed that by far the larger portion of the poverty among the Scotch was the product of intemperance; the extent of this burden of poverty, resulting from this single cause, will be better appreciated when it is stated that Scotland, with a population of only about 3,500,000, has 100,000 paupers. The same connection between intemperance and crime and poverty was shown by a most extensive investigation made throughout England, Scotland, Ireland and Wales during the years 1877 and 1878 by a Committee of the House of Lords, appointed for the purpose of inquiring into the prevalence of habits of intemperance, and into the manner in which those habits had been affected by recent legislation and other causes. Among the numerous subjects upon which this committee took evidence, was the free-trade system, as it was called, that prevailed in Liverpool from 1862 to 1866. Under this system licenses were usually granted to every applicant of respectable character, with suitable premises. And the clear weight of the evidence offered sustains the truth of the testimony of Mr. Lawrence, a leading magistrate of that city, who said, "The more you extend the facilities of trade, the more you develop it; free-trade could only have one effect upon a population such as that of Liverpool, namely, increasing the facilities of drink, and consequently increasing the temptations and increasing the intemperance." The experiment of this free-trade system, after four years' trial, was abandoned.

The same unvarying relation of cause and effect between the common use of intoxicating liquors, and crime and poverty, has been repeatedly demonstrated by legislative and other investigations in our own country.

By inquiries made with great thoroughness, and careful computations based thereon, by the Massachusetts Bureau of Statistics of Labor in 1879 and 1880, it was found that eighty-four per cent. of all the crime that came under the notice of the courts in that State was due, directly or indirectly, to the influence of liquor; that during the twenty years preceding 1879, the total number of sentences in that Commonwealth for crimes was 578,458, eighty-four per cent. of which is 485,890,—nearly half a million of sentences, in criminal causes, for crimes occasioned by the use of intoxicating liquors.

The Secretary of the Bureau, in closing this part of his report, says: "These figures (referring to numerous tables he had prepared) paint a picture at once the most faithful and hideous of the guilt and power of rum,—men and women, the young, the middle-aged, and the old, father and son, husband and wife, native and foreign-born, the night-walker and man-slayer, the thief and adulterer,—all testify to its ramified and revolting tyranny." The value of this testimony is greatly enhanced by the fact that the Secretary of the Bureau deputed agents, who ascertained the origin, cause, and character of every crime prosecuted in all the courts of the great county of Suffolk during the year 1879–80, and thus obtained from actual observation a basis for the most reliable computations and classifications.

In a petition presented to the authorities of the city of Boston in May last, by the Benevolent Societies and Associated Charities of that city, is found the following language: "The work in which the undersigned are engaged, enables them most fully to appreciate the extent of the evils which are daily increasing in the city from the neglect to enforce those constitutional and necessary restrictions upon the *liquor traffic*, which the legislature, in obedience to the will of the people, have seen fit to impose. Ample power to execute the law has been placed in the hands of your honorable board, and we ask that the power may be fully exercised, and society protected from the misery and crime which flow from the *unrestricted traffic in intoxicating liquors.*"

This petition was signed by the officers and representatives of forty-five different benevolent associations, engaged in the noble work of relieving human want and wretchedness, and who, in the discharge of their great administrative work of charity, have been compelled to look directly upon a vast mass of want, misery, and crime, caused, as they affirm, by the *unrestricted traffic* in intoxicat-

ing liquors. These associations of practical charity represent every religious denomination of a great city of more than 375,000 inhabitants; they have explored every lane and alley where human woe, poverty, and crime congregate; they have studied the causes of these, close at hand, and their united testimony is, that that cause is the *unrestricted traffic* in liquors. And this is said, let it be remembered, of a city boasting of its superior education and refinement, and in which, what has, by its friends, been called a stringent license law, has been in operation the last half dozen years.

This is one of the most striking and convincing pieces of evidence, that has ever been published, both as to the horrible effects of the liquor traffic, and the utter inefficiency of a license law to restrain it. And that which is true of Boston in this regard, is true of every other great city and community in the land where this accursed traffic is left unrestrained.

Ex uno disce omnes.

As an illustration of only one of the pecuniary burdens imposed upon the State by the same cause, I call attention to the Report of the Prison Commissioners of Massachusetts for the year 1880, wherein they say, ninety out of every hundred persons committed to all the prisons of the State were intemperate; and that the cost to the State of protecting society from this army of criminals during the year was $1,971,198.

In a most instructive statement, prepared by the Chief of the Statistical Office in the Department of Justice of Sweden, tracing the history of legislation in that country on the subject of the manufacture and sale of ardent spirits, and the progress made by that Northern people from the use of ale and mead at first, to the very free use of the stronger liquors, the writer says: "Charles XII. prohibited and maintained with vigor the prohibition against the distillation and sale of ardent spirits. During his wars abroad this prohibitory ordinance was repealed by the home government. But on his return to his kingdom in 1715, the ordinance was renewed and continued in force till his death in 1718. Distillation then again was made free, after which for more than one hundred and thirty years, with few and short exceptions, spirits flowed; sometimes, as it were, inundating the country and causing the most terrible ravages.

"A vigorously maintained prohibition against spirits in 1753–1756, and again in 1772–1775, proved the enormous benefits effected

in moral, economical and other respects by abstinence from spirits."

"And thus the nation rose and fell, grew prosperous and happy, or miserable and degraded, as its rulers and law-makers restrained or permitted the manufacture and sale of that which, all along the track of its history, has seemed to be the nation's greatest curse."

In his history of England in the eighteenth century, the accomplished historian Lecky says another measure of the Pelham Ministry was intended to check a still greater evil than Highland anarchy—the habit of gin-drinking, the master curse of English life, to which most of the crime and an immense proportion of the misery of the nation may be ascribed. The same historian, speaking of certain measures of the English government hostile to France, and designed to encourage domestic distilleries, says: "These measures laid the foundation for the great extension of the English manufacture of spirits; but still it was not till 1724 that the passion for gin-drinking appears to have infected the masses of the population, and it spread with the rapidity of an epidemic." And then with the calmness and impartiality of the historian, contemplating the disastrous consequences of this fact, as developed through more than a century of one of the most important eras of English history, he adds: "Small as is the place which this fact occupies in English history, it was probably, if we consider all the consequences that have flowed from it, the most momentous in that of the eighteenth century—incomparably more so than any event in the purely political or military annals of the country." In presenting this brief outline of evidence I have had recourse to sources of information of the highest authority, and in several instances selected those as witnesses who, while engaged on other lines of inquiry, and in other departments of benevolent activity for the discovery of human want, and the means of its relief, have unexpectedly fallen upon this evidence of the enormous evils resulting from the traffic in, and the use of, intoxicating liquors. I have also produced evidence from the widest fields of research, both as to time and place, to show that these evils are not the accidental or temporary attendants upon their alleged cause, but that wherever that exists these are sure to follow. And now my next inquiry is, Has not government the right to suppress, to destroy, if it can, the cause of these great public evils; or must society or government allow the cause to continue, and be limited in its

action to prosecuting the criminal and providing for the pauper, the insane and the diseased, with which this master curse is continually filling the land?

We may consider the right of government over this subject in two aspects: 1st. As it may be affected by the written constitution under which we live in this country; and 2d, as an original right of the State or society growing out of its duty and right of self-preservation.

The first has been most elaborately argued and considered during the last thirty or forty years in the courts of the States and nation; and has been definitively settled by the highest judicial authority, both State and National, in favor of the right of the States to regulate, and if deemed necessary, to absolutely prohibit, the liquor traffic. Chief Justice Taney, of the Supreme Court of the United States, in giving the opinion of that court in what are known as the "License cases," declares that, "If any State deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice, and debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether if it thinks proper."

Mr. Justice Grier, in giving his separate opinion in the same cases, says:

"The true question presented by these cases, and one which I am not disposed to evade, is, whether the States have a right to prohibit the sale and consumption of an article of commerce which they believe to be pernicious in its effects, and the cause of disease, pauperism, and crime. Without attempting to define what are the peculiar subjects or limits of the power to regulate internal police, it may safely be affirmed that every law for the restraint and punishment of crime, for the preservation of the public peace, health, and morals, must come within this category. As subjects of legislation, they are, from their very nature, of primary importance; they lie at the foundation of social existence; they are for the protection of life and liberty, and necessarily compel all laws on subjects of secondary importance, which relate only to property, convenience, or luxury, to recede, when they come in conflict or collision. It is not necessary to justify the State legislation now under consideration, to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of

ardent spirits. The police power, which is exclusively in the States, is alone competent to the correction of those great evils, and all means of restraint or protection necessary to effect the purpose, are within the scope of that authority. And if a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be the gainer a thousandfold in health, wealth, and happiness of the people."

Other judges read separate opinions, but arrived at the same conclusions by slightly different processes of reasoning, so that the judgment of the court was unanimous in sustaining the power and right of the States to regulate or prohibit the traffic in question. The particular laws involved in the cases in which this judgment was rendered, were the license laws of Massachusetts, New Hampshire, and Rhode Island. But at a later day a case was before the same court, involving the question of the constitutionality of the prohibitory law of Massachusetts, and that was sustained by the judgment of the whole court. All this is so familiar as hardly to justify the consumption of time occupied in its statement. Nevertheless, it is an important fact, to be kept in mind in this discussion, that the advocates of prohibition are fully sustained in their position by the unanimous and repeated judgments of the courts of final resort, and that neither the luxurious consumers of wines and brandies, nor the vendors of those commodities, have any just ground of complaint against the prohibitionists as attempting to invade any single one of their legal and constitutional rights; that debate is ended, it is no longer an open question in the courts of law or elsewhere under our constitutional form of government.

But there are speculative philosophers or theorists, who deny the right of the State or society, whatever may be the form of government, to prohibit the sale of intoxicating liquors, on the ground that such prohibition is an unauthorized infringement of personal liberty.

This infringement however, according to John S. Mill, one of the ablest and fairest of this school of thinkers and writers, is not on the liberty of the seller, but on that of the buyer and consumer. Selling fermented liquor, says this writer, is trading, and trading is a social act; whoever therefore undertakes to sell any description of goods to the public, does what affects other persons, and society in general; and thus his conduct, in principle, comes within the jurisdiction of society. But drinking liquors is an

individual and not a social act, and therefore, as he argues, Society has no right to interfere with it.

That is, according to this extraordinary process of reasoning, Society has the right to control and forbid, if it elects so to do, the action of one of two necessary parties to every act of sale, for every sale implies a contract, and there can be no contract without, at least, two parties; and it is conceded by Mr. Mill that so far as the seller is concerned, Society has the right to control his conduct. Now, if one of the consequences of this interference with the act of the seller is to deprive the buyer of the opportunity of purchasing, has the latter the right to demand, for that reason, that Society shall permit the existence of a traffic resulting in the crime, poverty and consequent taxation and other public burdens of which that traffic has been shown to be the primary cause, and all this in order that the buyer may be allowed to gratify his supremely selfish pleasure at whatever cost to Society? It is true that the full exercise of the rights of ownership and occupancy of my freehold may possibly deprive my neighbor of some part of the air, light and fine prospect he has heretofore enjoyed, but that can give him no just cause of complaint; he is to hold and enjoy his rights of property, subject to the contingency that I shall exercise all my proprietory rights. But this does not illustrate the full force of the argument in favor of the right of Society to suppress the liquor traffic. Nor is that argument founded on any such theory of "Social rights" as Mr. Mill attributes to the Prohibitionists, when he says they claim that "it is the absolute social right of every individual that every other individual shall act in every respect exactly as he ought, and that whosoever fails thereof in the smallest particular violates my social right, and entitles me to demand from the Legislature the removal of the grievance."

The controversy is not between two individual members of Society, but it arises between an individual prosecuting a commerce destructive of the common welfare, and Society, claiming its right to exercise the power of self-preservation. And it surely is a most extraordinary proposition, that Society must tolerate a traffic however injurious to the public, lest by its prohibition there should be some abridgement of individual rights, to purchase that which at most is only a doubtful luxury. The most plausible form in which this objection to the prohibition of the sale of liquors has been stated is the following:

"The only possible justification for singling out the one act of sale from amongst those others by which the liquor at last reaches the consumer, would be that it is necessarily, or even generally accompanied by such evils as to demand and justify its prohibition for the sake of the public welfare. There can be no doubt that the great majority of those who purchase and consume liquor are not guilty of intoxication, nor are the places where it is sold by any means so universally the scenes of drunkenness and disorder as to call for their universal suppression on that ground alone. It does not seem, therefore, either just or expedient that the perfectly moderate and harmless purchase and use of liquor by the majority of persons should be prevented because there are some who abuse the purchase or use of it, to their own hurt or that of others." Now, this statement assumes that the use of alcoholic liquors to any extent short of drunkenness, may be harmless, whereas it is the testimony of the highest medical and scientific authorities that it is one of the commonest things that people are injured by drink without being drunkards; that there is a point short of drunkenness in which a man may injure his constitution very materially. "I think," says Sir William Gull, one of the most eminent physicians in England, in his testimony before the Committee of the House of Lords, "that taking it as a whole, there is a great deal of injury done to health by the habitual use of wines in their various kinds, and alcohol in its various shapes, even in so-called moderate quantities. And this applies to both sexes and to people who are not in the least intemperate. A very large number of people in society are dying day by day, poisoned by alcohol, but not supposed to be poisoned by it. I hardly know," he adds, "of any more potent cause of disease than alcohol, leaving out of view the fact that it is a frequent cause of crime of all descriptions." And this testimony receives the amplest corroboration from that of many other most competent medical and scientific witnesses. A greater mistake cannot be made in the treatment of this subject, than to suppose that the extent of the evils, public and private, resulting from the use of alcoholic drinks, is to be measured by the number of drunkards caused by that use. But this objection to Prohibition, now under consideration, impliedly admits that Prohibition is defensible, if the sale of liquors "is necessarily, or even generally, accompanied by such evils as to demand and justify its Prohibition for the sake of the public welfare." Now this is the

very truth on which the whole theory of Prohibitory legislation rests. And it has been established by the most irrefragable proofs and by centuries of disastrous experience. But let us return for a moment to a further brief examination of Mr. Mill's discussion of the doctrine of personal liberty, by which he is led to condemn the Maine law, as he had learned to call it. That he misunderstood the subject, is apparent from the opening statement of his discussion, for he says that "under the name of preventing intemperance, the people of one English Colony and nearly half of the United States, have been interdicted by law from making any use whatever of fermented drinks, except for medical purposes; for Prohibition of their sale is in fact, as it is intended to be, Prohibition of their use." Now, while it is true that prohibiting by law the sale of intoxicating liquors will tend to promote temperance in any community that has intelligence and virtue enough to maintain such a law, yet that is not the primary ground on which the intelligent legislator places his advocacy of the law. That reason is, as I have already stated, that the sale of intoxicating liquor as a beverage, followed by its use by the purchaser, has been observed through centuries of time in this country and England, to produce the great public evils of crime, poverty, insanity, disease and death, resulting in enormous burdens of taxation upon the honest and sober industry of the country.

It is for the purpose of relieving itself from these evils that Society claims the right to destroy the known cause of them. Whether the sale of intoxicating liquor shall be, or ought to be, made a penal offence, is, as a question of practical jurisprudence or legislation, to be determined upon precisely the same principles as we would, as legislators, decide whether any other act not *malum in se* should be made punishable.

The unsoundness of Mr. Mill's reasoning upon this subject is further illustrated by the conclusions to which he is driven in relation to other acts of personal conduct, for by the same processes of reasoning which lead him to denounce the Prohibitory Liquor Law, he is compelled to say that drunkenness in ordinary cases is not a fit subject of legislative interference, and that fornication and gambling must be tolerated; and he also seems to be in doubt whether a person should not be free to be a pimp, or to keep a gambling house. "I will not," he says, "venture to decide whether the arguments in favor of punishing the last-named classes of

persons are sufficient to justify the moral anomaly of punishing the accessory, when the principal is (and must be) allowed to go free; of fining and imprisoning the procurer, but not the fornicator, the gambling-house keeper, but not the gambler. The case is one of those which lie on the exact boundary line between two principles, and it is not at once apparent to which of the two it properly belongs."

To such chaos in moral reasoning and in moral distinctions is this most formidable opponent of the prohibitory law brought, by applying to other subjects the same principles that have induced him to condemn that law. And, as it is to be presumed he has made out the best case against the law the subject admits of, when he is answered we need not trouble ourselves with the arguments of his followers. If our opponents would employ upon this question the same practical common sense as is exercised in other like cases, our controversies as to the principles upon which legislation respecting the manufacture and sale of intoxicating liquors should be founded, would soon be ended. Why, for instance, have such transactions as the establishment of lotteries and the sale of lottery tickets, and even the possession of such tickets with an intent to sell them, been made penal offences? Formerly they were legal, and were even encouraged as laudable methods of raising funds for educational and charitable purposes and institutions. But experience showed that these schemes of acquiring and distributing property, inducing men to rely upon the lot rather than upon honest and productive industry for the gaining of wealth, were generally, though not universally, attended with public mischief and demoralization, and accompanied often very likely with fraud; and for these reasons they were made punishable offences.

Again we are asked, why should the selling or having in possession, with intent to sell intoxicating liquors be made criminal, since the mere act of sale, and much less the keeping with intent to sell, can injure neither the individual nor the public? As well might the question be asked, why make criminal the possession of counterfeit money with intent to pass it, or of burglarious instruments with intent to use them, or of adulterated milk with intent to sell it.

The intent can never be injurious to others until it matures into action.

But in all these cases, and many others of like character to be found in the criminal code, it is the wise policy of the law to prevent the threatened evil before its consummation, and, to that end, acts are forbidden which are not the immediate or proximate cause of the evil, but stand in such invariable causal relations to it as to make it expedient to prohibit them under proper penalties. Another specious objection to the law making the seller of intoxicating liquor criminally responsible is, that the law is imperfect and inconsistent with sound principles of legislation, in not holding the buyer also responsible as *particeps criminis*. To this it is a sufficient answer to say that penal statutes are not passed to realize some supposed perfect or consistent theory of legislation, but to accomplish practical results. It would therefore be absurd to incorporate in a penal statute a provision that would deprive the government of the right to call witnesses best qualified to give evidence of violations of the statute; for, if buyers were made jointly liable with sellers, the former could not be required to testify, as no one can be compelled to furnish evidence against himself. This objection loses sight also of the fact that, independent of the statute, the act of selling is not a criminal offence, but is made so by the statute; and every intelligent legislature frames its laws so as most effectually to secure their object, which, in this case, is the suppression of the liquor traffic; and that object, so far from being promoted by making the buyer liable with the seller, would be most effectually hindered by it. As suggesting another defect in the prohibitory law, the opponent asks, "Do you expect to make men temperate by legislation?" to which the answer is, No, we do not. And I go further and say, even if it could be done, I do not believe government has the right to *make* men temperate by penal laws, any more than it would have the right to make them religious by the same means.

As well might the questioner ask, Do you expect to make men pious and devout by punishing them for wilfully disturbing a public religious meeting? and the law authorizing such punishment might with equal propriety be denounced because it cannot be made efficacious as a means of grace.

In both cases, — the seller of intoxicating liquor in the one case, and the disturber of the public meeting in the other, — are punished because they have committed an offence against the public peace or public welfare.

What the effect of their punishment may be upon themselves or others in the way of reforming them is not an unimportant question, but it is not the immediate and main question when we are considering what kind of penal statute the public good requires. It may be, and probably is true that, in the long run and upon a broad survey of the facts, all just penal laws will be found to have the effect, not only to check crime and protect the innocent, but also to purify society and make men better than they otherwise would be; for undoubtedly one of the objects of providing punishment for crimes is to deter men from committing them, and an enforced observance of the rules of good order and honesty is better than unrestrained license to evil. But penal codes are not enacted primarily for the purpose of reforming the world or the men in it, but rather for the just punishment of the vicious and wicked, who, regardless of social duty and the public welfare, are guilty of acts and practices which are destructive of that welfare.

Laws for punishing offences against the sovereignty of the state may not make all men loyal, yet they tend to prevent overt acts of treason and thus to preserve the public tranquillity.

Laws providing penalties for offences against the person and property of the individual citizen, for offences against public justice and the public peace, for offences against chastity, morality, and decency, for offences against the public health and public policy, are all more or less violated; yet such laws are maintained in every civilized state, and no one asks to have them repealed because they are not universally observed or because all men are not made honest, and just, and moral under their administration. The prohibitory law should be judged by the same standard as other penal laws are in determining its utility as an existing statute.

Whether prohibitory legislation upon this subject would be expedient in all states and countries alike, cannot be determined as a question of general jurisprudence. It by no means follows, because such a law is needed and would be useful in one state or country, that therefore it would be so in all others. For the Saracens, a nation of six millions of teetotallers, and who during six centuries exerted a powerful influence over the affairs of three continents, such a law, supplementary to their religious creed, would have been an absurdity. And, very likely, Spain, with her poor and comparatively temperate population, needs many other salutary laws much more than she does a prohibitory liquor law.

But such instances furnish no proper tests by which to judge of the expediency of such a statute, for people of another race, of different habits, and living in a different climate and under different forms of government. And as bearing upon this matter of expediency, it may well be questioned whether, in free and self-governing states like ours, laws affecting the tastes, habits, and employments of large portions of the people should be much, if at all, in advance of public sentiment sufficiently active and aggressive to secure their enforcement. It should never be forgotten that law is only a rule of conduct, by the proper observance and due execution of which some ulterior good is attained; and that the only way in which penal statutes can be enforced in these States is by the verdicts of juries; and I think the declaration will be sustained by the experience of every intelligent observer of what goes on in our courts, that on questions which have largely attracted public notice and excited public interest, the verdicts of juries rarely rise above the level of public opinion.

And the same thing has been said of the judgments of the highest courts. When the spirit of slavery was dominant in all the seats of power in this nation, Dred Scott decisions were possible in the Supreme Court of the nation; but now, since the spirit of liberty pervades the land, we shall hear no more such utterances from that august tribunal.

It is sometimes said a law based on right principles, although not executed, may act as a means of education and tend to raise public opinion to its own level. That will depend very much upon what the law is. It is at least questionable whether a law that is violated with impunity ten thousand times every day, and is openly set at defiance in thousands of tippling houses daily, can be made very useful as a means of education. Much discredit has been brought upon the prohibitory law, by its enactment under political stress or party management, in States where there was no permanent or intelligent public opinion demanding or supporting it.

And such enactment, followed by feeble and fitful enforcement, has been repealed, and then the claim made that the law had proved a failure. But wherever these laws have had a fair trial for a sufficient length of time to test their quality, they have, as the evidence proves, accomplished in the same manner as other penal statutes, the purposes for which they were enacted. They have not entirely stopped the sale of liquors, nor have all men under their influence

ceased to be intemperate, and they never will, until the avarice of the seller and the appetite of the buyer are controlled by a higher and more constantly operating influence than the fear of punishment.

But other criminal laws do not wholly prevent the commission of the crimes they denounce. I was informed a few days since from a member of the Chicago bar, that there are now pending, and awaiting trial in the courts of that city and county sixteen murder cases.

Yet I have heard of no proposition to repeal the laws of Illinois against homicide.

The prohibitory law has probably had the fullest trial in the States of Maine, Vermont, and Massachusetts. It has been replaced in the last-named State by a license law; in the two former it is still in force and has substantially suppressed the liquor traffic in all the rural parts of those States, and has done much to create and maintain habits of temperance among the people.* But the truth of history requires it to be said, I have no doubt, that in the cities and larger towns, a very considerable illicit trade has been carried on. There is no law so dependent for its vigorous execution upon the state of public opinion in each municipality or local police district. Still, if public opinion in the State as a whole is in favor of such a law, keeping it upon the statute book, although often violated in portions of the State, it acts as a wholesome police regulation, and tends to augment the power and increase the prevalence of that opinion.

As to license laws, the evidence derived from three centuries of trial in England, and at least of two centuries of similar trial in this country, prove their utter insufficiency, either materially to diminish or control the liquor traffic, or to mitigate the enormous evils

* Dr. L. W. Bacon, in his paper favoring a license system, read after this of Judge Aldrich, on prohibition, made allusion to something Dr. Cyrus Hamlin had said of the prevalence of intemperance in Bangor. Dr. Hamlin being in the audience, was subsequently called upon, and in a brief speech of five minutes gave very positive testimony as to the beneficial effect of the Maine law in the farming communities of that State. In Waterford, his native town, where there were eighty drunkards and seventy other hard drinkers before the law was passed, there are now but *two*, and there was, on his last visit to his native place not long since, absolutely no occupant of the jail in Oxford county, whereas it used to be full. He admitted he had recently seen a great deal of intemperance in Bangor. Ex-Gov. Dingly, of Maine, a most competent witness, has recently made similar statements in the public papers, as to the efficacy of the law in that State.

produced by it. From a careful study of license laws and their history in England and in our own country, I think it may safely be stated as a general truth, that in any state or community whose intelligence and moral sense are fairly expressed on this subject in the form of a license law, that intelligence is too limited, and that moral sense too feeble to secure even a decent execution of the license law itself.

And the free trade policy which prevailed before the period of licenses began, brought about such a state of things as was justly described as intolerable; which policy is not likely to be again adopted in any state or community whose laws are founded upon common intelligence and a decent regard for the common welfare. And now in closing this very imperfect discussion, let me remind you that the advocates of the prohibitory policy make their constant appeal to the facts and evidence on which their advocacy is founded. They affirm that the connection between the traffic as the cause and the evils complained of as the effects, has been conclusively proved, and so confident are they of the strength and soundness of their position, they are ready and willing the whole subject should be re-investigated, and to that end are annually, as I understand, pressing their petitions upon Congress for the appointment of a competent commission. And why should not this be done? The subject is under constant discussion in all parts of the country; States are resorting to the extraordinary measure of amending their constitutions to ward off the impending evils. The question will not rest — it must be settled and settled right. The conflict between the opposing parties is an irrepressible one, as much so as was that upon the subject of slavery. If the prohibitionists are in error, if the traffic in liquors is not an unmitigated curse, if it is not deluging the land with crime, poverty, disease, and death, and if prohibition is not the most effectual legal remedy, as they affirm, their mistake can be shown.

Let the whole subject be investigated by a tribunal appointed by Congress, or by the President, being duly authorized by act of Congress; let the commission be composed of men who, for their integrity and ability, shall command the confidence and respect of all parties; let their investigation be full, thorough, and impartial, covering every phase of the subject — the extent of intemperance in all the States, the amount and kinds of liquors consumed, and the legislation of the several States and its effectiveness or other-

wise, and after such an investigation a full report from the commission would furnish the basis for rational and intelligent legislation, and go far towards rendering such legislation uniform and permanent in all the States. The subject is large enough and important enough to command the best statesmanship of the country, and the wisdom of the wisest for its judicious treatment. The vast amount of capital invested, and the tens of thousands of men employed in the traffic, the expenditure of $600,000,000 or $700,000,000 annually by the American people for intoxicating liquors, and the incalculable losses, both public and private, resulting from that vast expenditure, form topics of inquiry and debate, in comparison with which, the discussion now in progress in relation to what is called civil service reform, to determine who shall hold the public offices, how they shall be appointed, and what the tenure of office shall be, is of secondary importance.

When an epidemic broke out two or three years ago, in some of the cities on the banks of the Mississippi, Congress appointed a commission to visit the infected districts, to investigate their sanitary condition, to discover the cause of the epidemic, and devise means for its removal. Government, in that case, did no more than its duty in an endeavor to promote "the public welfare," by providing means for the preservation of the public health. That epidemic destroyed only a few thousand lives at most, and its destructive course was arrested by the first frosts of autumn. But the liquor epidemic prevails all the year round, and from year to year, slaying its tens of thousands. Politicians and others may, if they please, ignore this subject for a while, and smile at what they may regard as the over zeal of the reformer, but this indifference and neglect will not last always, for until human hearts cease to feel the keenest anguish, and thousands of wretched homes forget to remember the cause of their wretchedness, this discussion will continue and at length command the attention of those occupying positions of power and influence in directing the public affairs of this great country, and until the world is rid of what a great writer has called "the slavery of superstition, folly, sin, sorrow, madness, and death, that has for ages been imposed upon it by the use of alcoholic drinks."

II. THE PROVINCE OF LEGISLATION IN THE SUPPRESSION OF INTEMPERANCE.

AN ESSAY BY F. W. BIRD, OF WALPOLE, MASS.

[Read before the American Social Science Association, at Saratoga, N. Y., Sept. 8, 1881.]

"The liberty of the individual must be thus far limited: *he must not make himself a nuisance to other people.*" — MILL *on Liberty.*

I have been requested by your Association to prepare an essay upon "The Unrestricted Traffic in Intoxicating Drinks." I would prefer to state the question in this form: The province of legislation in limiting the sale of intoxicating drinks, and the evils of intemperance. I shall not attempt to describe the sufferings of our entire community from this national curse. Seven hundred millions of dollars, it has been stated, are worse than wasted every year for intoxicating drinks. How many thousands of valuable lives, the revelations of the great day alone can tell. The drunkard's grave! where lie buried a father's hopes, a sister's love, a mother's tears and prayers. Who can count their number? Who can measure the aggregate of misery they cover? But these do not measure the extent of the woes of intemperance. Add the ruined health, the blighted lives of the thousands upon thousands who die of diseases caused and aggravated by moderate drinking, to which the doctors give respectable names. Add other thousand victims of medical prescriptions, as fatal to their victims in the White House as in the hovel, and we have an aggregate of woe appalling in its magnitude. If a foreign foe should invade the land, and take the lives of a tithe of the victims of intemperance, the whole people would arise to repel, or, once and forever, to crush the common enemy.

This national appetite, which grows by what it feeds on, like the behemoth of Job,

"Who sinks a river, and who thirsts again,"

threatens, more than all other agencies, the defeat of our experiment of self-government. Lovers of the race not blinded by self-interest or appetite, cannot differ as to the evils of intemperance. Unfortunately there exist wide differences as to the remedy.

I think we underrate the climatic influences which seem to necessitate the use of alcoholic stimulants. This, at least, is certain, that, during all the historic period, peoples living above certain parallels of latitude have indulged in the excessive use of intoxicating drinks. Any discussion which ignores this fact omits an important element of the great argument.

Another mistake of the advocates of legislation in the interest of temperance is found in the belief that statute law, not backed by an intelligent and earnest public opinion, can prove an effectual remedy for a great social evil. The stream cannot rise higher than its fountain; and while, as is the fact in regard to all prohibitory legislation, a majority of votes, from various considerations, are brought to enact prohibitory statutes, the constituencies are not in favor of the enforcement of the law. Take our Commonwealth of Massachusetts, where this law has had a longer and fairer trial than in any other community. In 1852 a prohibitory law, satisfactory to its friends, was enacted. I think no one, well acquainted with the public opinion of Massachusetts, will claim that a majority of our people had full faith in its accomplishing the results which its special friends expected; but, aware of the failure which had attended all previous legislation, a large majority of the people were glad to give the experiment a fair trial, and were sincerely desirous that it should succeed. From year to year amendments were made, to correct defects in the machinery of its execution, until it became as perfect, for its avowed purpose, as legal ingenuity could make it. Then it was repealed. Largely because it was found that it did not prohibit the sale; largely, also, because it did not diminish the evils of intemperance; mainly, because a majority of the voters were not in favor of enforcing a law which declared to be a crime the sale of an article which they themselves occasionally moderately used. The law was repealed in 1868. For sixteen years the friends of prohibition had the entire control of the legislation necessary to give it efficiency. The decisions of the courts pointed out defects, which the legislature never failed to remedy; and the repeal grew out of the conviction that the law had failed, — that prohibition did not prohibit; especially that the law did not diminish the amount or the evils of intemperance: and a new experiment, prompted by the same desire to limit the evils of intemperance which had inspired the prohibitory law, produced the license law of 1868.

The license law of 1868 was repealed in 1869, and a prohibitory law enacted in its place. In 1875 this was in turn repealed, and the present license law was passed. This too has failed. Indeed, its repeal passed the House to its third reading, at the last session, by a good working majority; and it was referred to the Committee on Bills in the third reading. In the mean time the Republican politicians became alarmed at the prospect of meeting this disturbing question in the fall campaign, threatening the election of a Democratic governor. Whereupon the committee having the bill in charge made the extraordinary discovery that the Act was unconstitutional because of the proviso referring it to the people; and the bill was rejected and the party saved!

Unreservedly admitting the right to pass prohibitory laws, I place opposition on the ground of the impossibility of their enforcement; beyond this, it may fairly be questioned whether enforcement so barren of results is desirable. An appetite so universal as the craving for stimulants cannot be controlled by arbitrary enactments; and, when reliance is placed upon these, self-discipline, which is the only parent of virtue, public or personal, fails to be practised.

It has always seemed to me that legislation in the interests of temperance begins at the wrong end. Whether in the form of regulation or prohibition, all the laws upon our statute books are aimed at the sale of intoxicating drinks: — the real evil is the use of such drinks, and the universality of the use is attested by the fact of the consumption of $700,000,000 worth annually in our country. While our people indulge in the use of this enormous amount, intoxicating drinks will be sold, law or no law.

Regulation in the form of license laws has proved equally inoperative. At the start, this kind of legislation encounters the objection which lies against all laws which grant special privileges to favored individuals or classes. If the sale of intoxicating drinks is a good thing, tending to the public welfare, one man has as good a right to sell them as another; if it is a bad thing, tending to the public injury, no man ought to be allowed to sell them. Always under "stringent" laws, when the policy is to allow the sale by those who will sell only to "proper" persons, the large class to whom licenses are refused unite with the opponents of the system of license, and sooner or later the law is modified in favor of more free licenses or of prohibition.

History, it is said, repeats itself. Legislation upon this subject

illustrates emphatically the truth of this saying. I have taken some pains to collate from the statute books of Massachusetts, as Colony, Province and Commonwealth, a sketch of the legislation of two hundred and fifty years upon this subject. I think it must be admitted that no community could afford a better field for the trial of this experiment. From the landing of the Pilgrims to this day, a large majority of our people have been intelligently and earnestly in favor of all legislative measures promising to restrain and limit the evils of intemperance. These efforts, taking every form of regulation, every form of restriction to the extreme of prohibition, have failed, — the failure being proved and admitted by the frequent changes of legislation which, in the best judgment of the community, were considered necessary by the failure of preceding methods. At the risk of prolonging this essay beyond reasonable bounds, I here present sketches of this legislation as concise as is consistent with a full understanding of the case.

PLYMOUTH RECORDS.

April 1, 1633. — John Holmes *censured* for drunkenness, to sit in the stocks, and amerced in twenty shillings fine.

June 1, 1633. — It was enacted, that the person in whose house any were found, or suffered to drink, drunk, be left to the arbitrary fine and punishment of the Governor and Council, according to the nature and circumstance of the same.

March 2, 1635–36. — It was ordered that none be suffered to retail wine or strong water, and suffer the same to be drunk in their houses, except it be at some inn or victualling-house, and there only to strangers at their first coming, not exceeding the value of twopence a person, and that no beer be sold in any such place to exceed twopence the Winchester quart.

Oct. 5, 1636. — By the jury, Thomas Savery was found guilty of drunkenness, and thought meet he should be whipped.

Jan. 5, 1635–36. — At this time Joseph Bidle was found guilty of being drunk by the jury, and was amerced forty shillings.

Oct. 2, 1637. — Mr. Stephen Hopkins, first presentment (for suffering men to drink in his house upon the Lord's Day, before the meeting be ended, and also upon the Lord's Day, both before and after the meetings, servants and others to drink more than for ordinary refreshing), is respited until the next court, that the testimony of John Barnes be had therein.

The same person was also presented for suffering servants and others to sit drinking in his house (contrary to the orders of this Court), and to play shovel-board, and such like misdemeanors, is therefor fined forty shillings.

Jan. 2, 1637–38.—Mr. Hopkins is presented for suffering drinking in his house, as *old Palmer*, James Cole, and William Reynolds.

Mr. Stephen Hopkins is presented for selling beer for twopence the quart, not worth one penny a quart.

Also for selling wine at such excessive rates, to the oppressing and impoverishing of the colony.

Oct. 23, 1638–39.—Matthew Sutherland, being proved to be drunken, was set in the stocks.

March 5, 1638–39.—John Holmes, the messenger, presented for sitting up in the night, or all the night, drinking inordinately at John Emerson's house.

March 3, 1639–40.—Francis Sprague of Duxbury, for drawing and retailing wine at Duxbury, contrary to the express order of this Court, is fined by the Bench twenty shillings sterling.

Sept. 1, 1640.—Mr. Tast of Scituate, for drawing wine without license, is fined five shillings.

Francis Sprague of Duxbury, for the like, five shillings.

June 5, 1644.—Anthony Thatcher licensed to draw wine at Yarmouth; Henry Cobb, at Plymouth; William Barker, at Taunton; William Newland, at Sandwich; Edmund Elderden, at Scituate.

July 7, 1646.—*Francis Sprague* of Duxbury is licensed to keep an ordinary, and draw wine at Duxbury. Others, also, at divers places.

June 20, 1654.—*It is ordered*, That if any person or persons drink themselves drunk, for the first default (they shall pay) five shillings; for the second, ten shillings; and for the third, shall be set in the stocks.

Whereas there hath been great abuse, by trading wines, and other strong liquors, with the Indians, whereby they drink themselves drunk, and, in their drunkenness, commit much horrid wickedness, as murdering their nearest relations, etc., as by sad and woeful experience is made manifest: —

It is therefore ordered, That no person or persons whatsoever, from this time, trade any strong liquors, directly or indirectly, to the Indians within this jurisdiction, upon penalty of the forfeiture

of the double value of the goods so traded for their first default; and fourfold for the second default; and for the third default, if an inhabitant, to lose the privilege of trading with the Indians for the future; and, if a stranger, to forfeit ten pounds sterling for the first default; twenty pounds sterling for the second; one half to the person informing, the other half to public uses.

1657.— Liberty is granted to Edward Bangs to draw and sell wines and strong waters at Eastham, provided it be for the refreshment of the English, and not be sold to the Indians.

March 2, 1657–58. — John Barnes, for his frequent abusing of himself in drunkenness, after former punishment and admonition, is fined five pounds: and in case any shall entertain him in their house in a way of drinking shall be fined the sum of twenty shillings; and if any of the town of Plymouth shall be found drinking in his company, every such to pay two shillings sixpence.

Oct. 2, 1658. — Thomas Lucas for being taken in drink, it being the second time he hath been convicted of this crime, he is, according to the order of the Court, fined ten shillings; and for his retailing strong liquors, himself confessing it, he is fined five shillings to the country's use.

March 1, 1658–59. — William Bassett, jun., is licensed by the Court to sell wine and strong waters at Sandwich for the refreshment of travellers, . . . but the said Bassett is not to permit any of the town to stay drinking at his house; also, John Richards and John Barnes at Plymouth on the same condition.

Oct. 6, 1659. — *John Barnes* was *disfranchised* for his frequent and abominable drunkenness.

Oct. 2, 1660. — Several persons fined for being drunk second and third times.

June 10, 1661. — Ordinary keepers at Plymouth prohibited selling to John Barnes, under penalty of fifty shillings.

March 3, 1662–63. — Several persons fined twenty-five shillings each for selling liquor to the Indians.

March 1, 1663–64. — At this Court Thomas Lucas was publicly whipped for being drunk the third time. He was sentenced formerly for being drunk the third time; nevertheless, the execution thereof was *respected* (*sic*, probably *respited*) until he should be found drunk again, which accordingly was witnessed against him, and so the said punishment was inflicted on him, as aforesaid.

June 9, 1565. — An account of liquors brought into the town of Eastham.

July 5, 1670. — Edward Sturgis, sen., is allowed to keep an ordinary at Yarmouth, and required to keep good order in his house in that respect, that rude fellows be not found nor suffered there to misdemean themselves.

John Woodcock is allowed by the Court to keep an ordinary at the Ten Mile River (so called), which is in the way from Rehoboth to the bay, and likewise enjoined to keep good order, that no unruliness or ribaldry be permitted there.

Other similar licenses about that time.

June 5, 1671.—For the prevention of great abuse by the excessive drinking of liquors in ordinaries, this Court doth order that every ordinary keeper in this government shall be hereby empowered and required, that in case any person or persons do not attend order, but carry themselves uncivilly, by being importunately desirous of drink when denied, and do not leave the house when required, such ordinary keeper shall return their names to the next Court, that so they may be prosecuted according to the nature of the offence; and in case any ordinary keeper shall neglect so to do, he shall be fined five shillings for every default.

It is further ordered by this Court, that some two or three men be appointed in every town of this jurisdiction to have the inspection of the ordinaries, or in any places suspected, to take notice of such abuses as may arise in reference to the premises or otherwise, and make report thereof to the Court.

June 1, 1675. — Thomas Lewis for being distempered with drink, it being so often, and that he hath borne several particular punishments gradually, and cannot be reclaimed, it was ordered concerning him, that all that sell drink be strictly ordered and prohibited to let him have none.

Oct. 30, 1678. — Francis Combe is licensed by the Court to keep an ordinary at his house in Middleborough for entertainment of strangers, and is allowed to draw and sell beer, wine, and liquors there for the entertainment and refreshment of travellers, and is hereby required to keep good orders in his house, that there arise no just cause of blame by his negligence in that behalf.

March 8, 1678–79. — Whereas David Turner, Joseph Studley, and Peter Worthylake are complained of for their abusive frequenting the ordinaries in Scituate, spending their time there, and ex-

pending their estates, so as they are become very poor, these are therefore to require all such ordinary keepers as are in Scituate to take effectual course that the said persons be not entertained so frequently and unneeessarily, contrary to the laws of this government, in their houses, nor any other like them, as such ordinary-keepers will answer it at their peril.

June 5, 1684.—This Court grants liberty unto Isaac Howland to keep an ordinary at Middleborough, and to be provided with sueh necessaries for that purpose as are requisite, as lodging and victuals for men, and fodder for horses; and that he keep good orders in his house, that he ineur no just blame by his negligenee.

Similar lieenses granted elsewhere.

Oct. 27, 1685.—The Court have granted liberty to Thomas Leonard and Shadrack Wilsborn of Taunton to sell strong liquors by the gallon, so that they are careful not to sell to such as will abuse the same.

June, 1686.—The Court hath granted liberty to Margaret Muffee of Scituate to retail strong liquors in the town of Scituate aforesaid, to sueh as buy it and carry it out of door, or from her house and not drink it there, and likewise that she shall not sell liquors by less quantities than one gallon, and be careful whom she sells it to.

Oct. 2, 1689.—Ordered by this Court that whosoever shall inform against any person for retailing any strong drink without license, and proseeute his said information to effeet, sueh informer shall have one moiety or half the fine that such retailer shall be, aecording to law, senteneed to pay. And if any shall inform and proseeute as aforesaid against any innkeeper for the breaeh of any law of this eolony that eoncerns innholders, he shall likewise have half the fine.

Dec. 25, 1689.—Whereas divers acts and orders have been lately made by the General Court prohibiting any person from selling by retail any kind of strong drink without lieense, it is now, therefore, further ordered, and by this Court declared, that whosoever shall, without license, sell and deliver a less quantity at one time to any person or persons than five gallons of wine, brandy, rum, or strong liquors, or less than a quarter cask of eider, sueh seller is by law deemed, judged and aecounted a retailer, and as sueh to be proceeded against as the law directs.

Massachusetts Bay Records.

The first entry in the Records of Massachusetts Bay was as follows, dated Sept. 3, 1633: "Robert Coles is fined ten shillings, and enjoyned to stand with a white sheet of paper on his back, whereon '*a drunkard*' shall be written in great letters, and to stand therewith so long as the Court thinks meet, for abusing himself shamefully with drink."

And on the same date, fines and labor of various kinds were established as the penalty for drunkenness.

Nov. 20, 1637.—It was ordered by the Court that "Keepers of inns or common victuallers' houses should not sell, or have in their houses, any wine or strong waters, nor any beer or other drink, other than such as may and shall be sold for one penny the quart at most, and shall not brew their own beer, but buy of common brewers." And that "Common brewers shall not sell to any inn or common victualler any beer or drink of *stronger size* than such as may and shall be afforded at the rate of eight shillings per barrel." And also that "No single man shall lodge or remain in any inn or common victualler's longer than for their necessary occasions."

May 22, 1639. — It was ordered that "Those who are permitted to retail wines and strong water should not sell any to be drunk in their houses."

Sept. 4, 1639. — It was ordered that "Drinking healths be forbidden under penalty of twelve shillings fine."

Oct. 18, 1648. — It was ordered that "If any person who is by this Court allowed to sell wine or beer shall from this time forward *conceal in his house* any person that shall be found drunken, and shall not forthwith procure a constable whereby such drunken person may be brought before some magistrate, to the end he may receive condign punishment, . . . he shall forfeit to the use of the country five pounds for every such default."

Jan. 18, 1645. — It was provided that "Public houses be granted (licensed) by the Court."

That "the price of beer be fixed at two cents a quart."

The "penalty for drunkenness" was fixed for "the seller at five shillings for such offence;" for "every person found drunk, ten shillings;" for "every excessive drinking, three shillings;" for "sitting idle and continuing drinking over half an hour, two

shillings and sixpence;" for "excessive drinking, — above half a pint of wine for each person, — second offence, double fine; third offence, treble fine, or, if unable to pay, *twenty stripes;*" for "excessive drinking, *three hours in the stocks;*" and for "fourth offence, imprisonment."

May 14, 1645. — It was provided, that, in order to keep a public house, be a common victualler, vintner, taverner, etc., a license should be had of the Quarter Court in the shire where the applicant dwells.

A fine of twenty shillings per week was imposed for unlicensed persons selling.

A penalty of five shillings for continuing tippling above the space of half an hour. Excessive drinking was defined to be when more than half a pint of wine is allowed at one time, for one person to drink.

Second offence of drunkenness was made liable to double fine, and third offence to treble fine, or, if unable to pay, the offender was to receive ten stripes, or be set in the stocks three hours. For fourth offence, to be imprisoned until he give two good sureties for good behavior.

It was also provided that no laborer should be forced to receive payment in wine.

Nov. 4, 1646. — The following law was passed: —

"Forasmuch as drunkenness is a vice to be abhorred of all nations, especially of those who hold out and profess the gospel of Christ Jesus, and seeing any strict law against the sin will not prevail, unless the cause be taken away,

"It is therefore ordered by this Court, —

"1. That no merchant, cooper, nor any other person whatsoever shall, after the first day of the first month, sell any wine under a quarter-cask, neither by quart, gallon, or any other measure, but only to such taverns as are licensed by the Court to retail wine, or any one whom the Court may license to sell per the gallon; and whosoever shall transgress this order shall pay ten shillings to the treasury of the country, to be levied by distress on his goods and chattels: and where there is no estate found, such delinquent against this order to be imprisoned during the Court's pleasure.

"2. That no taverner be licensed to sell wine but shall first pay a fine to the treasury, and a yearly rent for his said license also.

"3. That the constables have power from time to time, not only to enter into and search the taverns for any disorder that may be there found, to punish according to law, either the taverner that suffereth misdemeanor in his house, or any other offenders there; as also to search any house suspected to sell wine contrary to this order; also any taverner or other person that shall inform against any transgressor of this order shall have half of the fine for his encouragement: this to be of force to the end of the next Court of Elections, and no longer, unless the Court shall otherwise order.

"It is ordered and enacted that no person or persons having license to keep a common house of entertainment shall suffer any person or persons at unseasonable times to drink or tipple in their houses upon pain to forfeit for every fine for each person so tippling five shillings; and it is declared to be unseasonable times any time after nine of the clock.

"This law doth not intend, nevertheless, to hinder the entertainment of seafaring men, or land travellers, in the night season, when they come first ashore, or from their journey, in such houses for their necessary refreshment, or when they prepare for their voyage or journey next day early, so that there be no disorder amongst them; and every person that shall be found so tippling, he shall forfeit for every such offence five shillings, and for default of payment to be imprisoned till he shall pay it, or be set in the stocks an hour or more, not exceeding three, as the season will permit, on a market-day; nor shall any person or persons sell strong water, wine, or beer, in their own houses, to any stranger or neighbor to drink, as those that have license to keep houses of common entertainment may do, upon pain to forfeit every time for each offence ten shillings; and if any such private person be not able or be unwilling to pay his fine, the constable, by warrant from the magistrates, shall set such a person in the stocks an hour or more, not exceeding three hours, as the season will permit; nor shall any person or persons not licensed sell wines by retail, which is intended any measure less than a quarter-cask, to any persons or families, upon pain of forfeiting for every time so selling wine ten shillings; nor shall any merchant, cooper, owner, keeper of wines, or other person, that hath the government of them, suffer any person or persons to drink to excess, or drunkenness, in their wine-cellars, ships, other vessels, or places where wines do lie, on pain to forfeit for each person drinking to excess

or drunkenness ten shillings: the offences against this law are to be heard and determined according to the law made against drunkenness the 13th of the third month, 1645, by any one magistrate, who shall hereby have power, by warrant, to send for parties and witness, and to examine the said witnesses upon oath, and the parties without oath, concerning any offence against the law, or the said law of drunkenness; and if any party voluntarily confess his offence against any breach of these laws, his oath shall be taken, and be a sufficient witness against any other offending at the same time; and the penalties forfeited on this law to be in such sort levied and disposed as is appointed in the said law against drunkenness. And be it further enacted, that if any person that keepeth, or hereafter shall keep, a common house for entertainment, shall be lawfully convicted the third time for any offence against any branch of the law against drunkenness, or this law, then every person so convicted shall, for the space of three years next ensuing the said conviction, be disabled to keep any such house of common entertainment, or sell beer, wine, or the like, and shall be discharged for the said offence by warrant from any one of the magistrates, unless the Court shall see cause to continue them, at their discretion."*

Nov. 13, 1644. — The following record is made:—

"The Court, apprehending that it is not fit to deprive the Indians of any lawful comfort which God alloweth to all men by use of wine, do order that it shall be lawful for all such as are, or shall be, allowed license to retail wines, to sell also to the Indians so much as may be fit for their needful use or refreshing."

Oct. 18, 1648. — It was provided that "Licensed sellers by two persons chosen by themselves (one for Boston and one for Charlestown, *might search places* suspected of being places where wine is sold by unlicensed persons, and arrest persons drinking, as witnesses before the magistrate."

Oct. 17, 1654. — "Tippling, or sitting drinking wine or beer," was forbidden under a penalty for first offence of twenty shillings; second offence, five pounds; third offence, twenty pounds bond for good behavior, or imprisonment." A penalty was also provided "for the seller of twenty pounds, and forfeiture of license."*

Dec. 31, 1661. — Selling liquor was forbidden less than a quarter of a cask delivered at one and the same time.

* See Note A, Appendix.

Oct. 12, 1670. — Selectmen were enjoined to take special care and notice of, and forbid, tippling. If any person disobeys, to be fined five shillings or be set in the stocks.

July 4, 1684. — It was provided that licensed persons complaining of and convicting unlicensed persons should have half of the fine.

In 1692–93 may be found the following preamble to a law passed that year: —

And "Forasmuch as the ancient, true, and principal use of inns, taverns, ale-houses, victualling-houses, and other houses for common entertainment is for receipt, relief, and lodging of travellers and strangers, and the refreshment of persons upon lawful business, or for the necessary supply of the wants of such poor persons as are not able by greater quantities to make their provision of victuals, and are not intended for entertainment and harboring of lewd or idle people to spend or consume their time there; therefore, to prevent the mischiefs and great disorders happening daily by the abuse of such houses, it is further enacted," etc. (The act forbids the use or keeping of cards, dice, and other implements of gaming.)

By an earlier section of the same law, the fine for unlicensed selling is made for the first offence forty shillings, one-half to the informant and one-half to the use of the poor of the town; for second offence, forty shillings and sureties for good behavior.

By the law of 1694–95, retailers are to sell no other sorts of drink than what they are licensed to, nor to suffer persons to drink in their houses.

Officers were to inspect public houses, and to present such as sell without license. A penalty was established for officers receiving any bribe.

Selectmen were to cause reputed drunkards to be posted up, and a penalty imposed on keepers of public houses giving them entertainment.

By the law of 1695–96, keepers of unlicensed houses, if detected and convicted, and unable to satisfy the fine imposed by law, and cannot be punished by imprisonment without wrong to their families, are to be *openly whipped* not less than ten nor more than fifteen stripes. Officers were empowered to enter unlicensed houses of any person suspected of selling without license, having been once convicted thereof, and to search for strong drink, and to seize and secure the same, and the liquor to be forfeited (except such as

may be adjudged necessary for the use of the family), one moiety to go to the party that seized and informed of the same, and one moiety to the poor of the town.

1698, 1st session, chap. 10, provides that licensed persons shall suffer no apprentice, servant, or negro to sit drinking.

Sect. 2. Neither shall any licensed person suffer any inhabitant of such town where he dwells, or coming thither from any other town, to sit drinking or tippling in his or her house, or any of the dependencies thereof, or to continue there above the space of one hour (other than travellers, persons upon business, or extraordinary occasions), on the penalty of ten shillings for each offence.

Sect. 3 fines persons tippling or drinking, contrary to this Act, three shillings and fourpence, or they are to be set in the stocks not exceeding four hours' time.

Sect. 4 provides that licensed persons shall not suffer any person to drink to drunkenness or excess in his or her house, nor shall suffer any person as his or her guest to be or remain in such house, on the Lord's Day (other than travellers, strangers, or such as come thither for necessary refreshment), on pain of forfeiting the sum of five shillings for every offence.

Sect. 5 provides that all fines shall go, one moiety thereof to the use of the poor of the town, and one moiety to the informer.

Sect. 6 provides that two sureties of five pounds each be furnished by the person licensed.

Sect. 7 gives tithingmen power to inspect licensed houses, and to inform of misdemeanors and disorders.

Sect. 12 provides that no more persons shall be licensed to keep public houses than what are necessary for refreshment of travellers, etc.

1711–12, March. Chap. 1. Preamble to and Provisions of Law passed. — "Whereas the laws, at several times established by the government of this Her Majesty's province of the Massachusetts Bay, and now in force, have made good and wholesome provision for the regulation of inns, taverns, ale-houses, victuallers, and other houses for common entertainment, and retailers of strong liquors out of doors, and for preventing of tippling and drunkenness, declaring that such licensed houses ought to be improved to the right end and uses for which they are designed; namely, for the receiving, refreshment, and entertainment of travellers and strangers, and to serve the public occasions of the towns and places

in which they are, and not to be nurseries of vice and debauchery, as is too frequently practised by some, to the hurt of many persons by misspending their time and money in such houses, to the ruin of families."

Sect. 1 provides that the laws against drunkenness, profaneness, and other immoralities, together with this Act, be solemnly read by the town-clerk in each town, at their anniversary town-meeting in March, from time to time.

Sect. 2 directs all justices, sheriffs, grand jurors, tithingmen, constables, etc., to see said laws observed; "and the selectmen and other principal well-disposed persons in each town, desirous of a reformation, are hereby exhorted and directed to countenance, accompany, assist, and join with" said officers in endeavoring to discover and suppress all unlicensed houses, and vice, immorality, and profaneness.

Sect. 3. A list of names of persons for license to be transmitted to the selectmen.

Sect. 4. None to be originally licensed but upon the recommendation of the selectmen. Licenses not to be renewed until complaints be heard and judged of.

Sect. 5. Licensed persons not suitably provided, to be deprived.

Sect. 6. Town-dwellers prohibited drinking in public houses after nine at night.

Sect. 10. Common drunkards to be posted up at retailers'.

Sect. 12. Selectmen to appoint informers.

1716–17. — Some new provisions of law were added.

Chap. 1. — Sect. 7. Penalty of £10 for selling without license, one-half to poor, one-half to informer.

Sect. 8. Justices of the peace to examine on oath persons who resort to unlicensed houses, and to bind over such witnesses, and the persons suspected of selling, to the next general sessions of the peace.

Sect. 9. Persons refusing to give evidence, to be subject to the same penalty as those convicted of selling without license.

1721. Chap. 1. Preamble to Sect. 8. — "And notwithstanding the laws made against selling strong drink without license, many people, not regarding the penalties and forfeitures in said acts, do receive and entertain persons in their houses, and sell great quantities of spirits and other strong drink, by reason whereof great

debaucheries are committed and kept secret, and *such as take and pay for their licenses are injured* thereby. Be it therefore enacted,

"SECT. 8. That whosoever, after the twenty-ninth day of June, 1721, shall presume to sell brandy, rum, or other distilled spirits, wine, beer, cider, or perry, or any other strong drink, without license first had and obtained from the general sessions of the peace," shall forfeit ten pounds — one-third to poor, one-third to commissioner (of excise), one-third to informant — and costs. Refusing or neglecting to pay, not exceeding twenty nor less than ten stripes, and stand committed in the common jail ten days, or pay costs.

SECT. 9. Same as sect. 8 of 1716–17.

SECT. 10. Same as sect. 9 of 1716–17.

1726–27. — SECT. 8. Selling without license, penalty for £10,— one-third to poor, one-third to collector of excise, one-third to informant, — or, refusing to pay, to common jail for forty days at least.

SECT. 9. Forbidden to sell by children or servant or any other member of the family.

SECT. 10. Two credible persons who have bought strong drink, sufficient evidence to convict.

SECT. 11. Suspected houses to be examined under the oath of persons resorting to unlicensed places.

SECT. 11. Person refusing to give evidence, to be liable to same penalty as unlicensed dealer.

1727. Chap. 1. — Substantial re-enactment of same law.

1732–33. — Substantial re-enactment of same law.

1740. Chap. 3. — Similar enactment. No substantial difference.

1742–43, 1745–46, 1748–49, similar enactments to those previous, except addition in law of 1748–49, providing that after conviction of selling without license, the offender shall enter into bonds of twenty pounds for good behavior, or, refusing or neglecting, to be imprisoned until he shall comply.

1751–52, 1752–53, 1753–54, 1754–55, similar enactments.

1755–56, similar enactment with this addition: "Whereas, in order to elude the design of this act, some persons may join together, and buy wine, rum, brandy, and other spirits distilled in quantities above twenty-five gallons, and afterwards divide the same among themselves in less quantities, be it therefore enacted,

SECT. 8. That "Persons not licensed joining together in purchasing liquors and dividing the same, are liable to same forfeiture as for selling without license."

SECT. 9 also provides that liquors *lent* or *delivered*, on consideration of returning the same or like liquors, shall be deemed a sale, and liable to same penalty as absolute sale of the same.

1755–56, seventh session, similar enactment to foregoing.

1758–59 forbids selling to negroes, mulattoes, Indians, or child, or other person under the age of discretion.

1760, Feb. 12, similar law.

1761, Jan. 22, similar law.

1762–74, similar law.

Feb. 28, 1787. — SECT. 1 prohibits selling by retail, of a less quantity than twenty gallons, and that delivered and carried away at one time, under forfeiture of twenty pounds.

SECT 2. Licenses to be yearly renewed, and licensee to be approved by the selectmen.

Licensee to be sworn to bear true faith and allegiance to the Commonwealth of Massachusetts.

No license to be renewed to person complained of under previous license.

SECT. 3. Innholders and taverners at all times to be furnished with suitable provisions, etc., on pain of being deprived of their license.

SECT. 5. Penalty of forty shillings for keeping implements of gaming.

SECT. 6. Penalty of thirty shillings for suffering dancing or revelling.

SECT. 7. Forfeiture of twenty shillings for suffering persons to drink to excess.

SECT. 8. Penalty for second breach of this act twenty pounds, and two sufficient sureties for good order. For third offence, forfeiture of license, and no renewal for three years.

SECT. 9. Failure to pay fine and costs, to be openly whipped not more than fifteen, nor less than ten, stripes, and stand committed until fine is paid.

SECT. 10. Persons licensed shall be bound to the Commonwealth in two sureties not to break any of the laws made, etc.

SECT. 15. Justices directed not to license more persons than are necessary for the public good.

Sect. 16. Selectmen shall cause the names of common drunkards, etc., to be posted in the houses of taverners, and other licensed houses. Keepers to forfeit thirty shillings if they sell to such persons.

Sect. 17. Selectmen shall forbid licensed persons to sell spirituous liquors to excessive drinkers, idlers, and misspenders of time. Penalty for, twenty shillings.

Sect. 18. Innholders who shall trust or give credit for more than ten shillings to inhabitants of his town, or not more than five miles distant, shall lose such sums trusted, and all action for recovery debarred.

Sect. 19. Tithingmen to be chosen annually to inspect all licensed houses, and inform of all disorders.

Sect. 20. Fines, one-half to county, and one-half to informer or prosecutor.

June 22, 1789. — Whereas the manufacture of strong beer, ale, and other malt liquors will promote the purposes of husbandry and commerce by encouraging the growth of such materials as are peculiarly congenial to our soil and climate, and by producing a valuable article of exportation, and whereas the wholesome qualities of malt liquors greatly recommend them to general use, as an important means of preserving the health of the citizens of the Commonwealth, and of preventing the pernicious effects of spirituous liquors,

Therefore be it enacted, etc., All brew-houses that produce a hundred barrels of beer annually, to be exempt from taxation or duties five years.

March 12, 1808. — If selectmen unreasonably neglect or refuse to give approbation to be an innholder or retailer, the Court of Sessions within the county may grant license.

1819. *Chap.* 65. — Whenever selectmen have *posted* names of common drunkards, etc., and forbidden sale of liquor to them, any person purchasing *for* them shall pay the sum of ten dollars.

Innholder, victualler, or retailer suffering any minor, tippler, common drunkard, or gambler to remain in his or her house, or shall furnish them with strong liquors, shall forfeit and pay a fine of ten dollars, and forfeit license, not to be renewed for three years.

Feb. 21, 1820, *Chap.* 256. — Additional fee of four dollars to be paid by licensees for the use of the Commonwealth.

1831. *Chap.* 136.—"Ten-gallon law," so called.

SECT. 1. Sale of liquor by person presuming to be a common victualler, etc. (by retail, or in a less quantity than ten gallons, and that delivered and carried away all at one time), unless duly licensed therefor according to law, forfeiture of thirty dollars.

Sale of spirituous liquor by *any* person, penalty of ten dollars.

SECT. 2. Presuming to be a common victualler, etc., and selling wine, beer, ale, cider, or any fermented liquors in less quantity than ten gallons, all carried away at one time, forfeit thirty dollars; and for each offence, ten dollars.

Excise for license under this section, one dollar.

SECT. 3. Presuming to be a common seller of brandy, rum, and of wines, etc., by retail, or in a less quantity than ten gallons, all delivered and carried away at one time, without license, thirty dollars fine, and each offence, ten dollars.

Excise for license, five dollars.

SECT. 4. Presuming to be a common seller of wine, etc., same fine, and excise, one dollar.

SECT. 5 forbids licensed common victuallers, etc., to retail any liquors, "*except* to be drunk or spent in or about his or her house, or part or dependencies of the same."

Also forbids licensed common retailers of brandy, rum, etc., to retail any distilled or fermented liquors *to be drunk in his or her house or shop*, etc., under penalty in each case of thirty dollars.

Provided, *nevertheless*, that the mayor, etc., of the city of Boston and selectmen of towns *may* license common retailers of beer, ale, and cider, to be drunk on premises, upon such terms and conditions as shall seem to them just and proper.

SECT. 6. Selectmen to take oath to faithfully discharge their duties, etc.

March 24, 1832. — SECT. 1. No person shall presume to be an innholder, or seller of wine, brandy, rum, or any other spirituous liquor, to be used and consumed in or about his or her premises, without license, as is herein provided, on pain of forfeiting the sum of one hundred dollars. Penalty for selling spirituous liquors, or *any* mixed liquors, *part* of which is spirituous, without license, etc., twenty dollars.

SECT. 2. Retailers of wine, brandy, rum, etc., *without* license, in less quantity than ten gallons, delivered and carried away at one time, twenty dollars for each offence.

Licensed retailers selling liquors to be drunk in his house, etc., penalty, twenty dollars.

Sect. 3. Person presuming to be a common victualler or seller of wine, brandy, rum, etc., to be used and consumed about his premises, without license, forfeits one hundred dollars, and twenty dollars for each offence.

Sect. 4. Mayor and aldermen of Boston may license as many persons as, in their apprehension, the public good may require.

Sect. 5. Penalty for keeping open shop on the Lord's Day, or later hour than ten o'clock P. M., of any working day, ten dollars.

Sect. 6. Mayor and aldermen may license for Boston, county courts for counties.

Sect. 7. Licenses to be yearly renewed.

Sect. 8. May also license without fee.

Sect. 9. Conditions of license, certificate of good moral character.

Sect. 10. Every licensed innholder shall be furnished with suitable provision for the refreshment and entertainment of strangers and travellers.

Sect. 11. Dice, cards, billiards, and gaming implements, and use forbidden under penalty of ten dollars.

Sect. 12. No innholder or common victualler shall permit any person to drink to excess in his place of business, under penalty of five dollars.

Sect. 13. Giving credit for liquor to be drunk on his premises, shall lose and forfeit all sums so credited.

Sect. 14. Mayor and selectmen shall forbid selling to persons drinking excessively or wasting time, under penalty of twenty dollars.

Sect. 15. Fines and forfeitures, how to be collected.

April 19, 1838. — Fifteen-gallon cans (so called), passed.

Feb. 11, 1840. — Ditto, repealed.

March 14, 1844. — In all prosecutions for selling, the legal presumption shall be that the defendant has *not* been licensed.

1850. *Chap.* 232. — License law amended.

Sect. 1. Striking out "spirituous" wherever it occurs, and inserting in place thereof "intoxicating."

Sect. 2. The county commissioners in the several counties, upon the recommendation of the selectmen of the town in which such persons may reside, and the mayor and aldermen of the sev-

eral cities, may authorize by license, for a period of time not exceeding one year, and revocable at their pleasure, as many persons as they shall think the public good may require, to sell, in the towns or cities where they reside, intoxicating liquors in a less quantity than *twenty-eight gallons*, and that delivered and carried away all at one time, for mechanical and medicinal purposes only.

Sect. 3. Penalty for selling contrary to law: third offence, one to ten hundred dollars recognizance, to be forfeited if he violate the law again.

1852. *Chap.* 322. — Prohibitory law, so called.

1854. Several amendatory acts passed.

1868. *Chap.* 14. — License law passed. Prohibitory law repealed.

Chap. 311. — Amendments to license law unimportant.

Chap. 318. — Amendments to license law unimportant.

Chap. 344. — Amendments to license law unimportant.

1869. *Chap.* 191. — No licenses to be issued or have force or validity after 30th April.

Chap. 415. — Prohibitory law re-enacted.

Chap. 442. — Unimportant amendment.

1870. *Chap.* 389.—Amendments, unimportant, allowing manufacture and sale of malt liquors.

Chap. 391. — Unimportant amendments.

1875. *Chap.* 99. — License law passed. Prohibitory law repealed.

Such are the results of legislation in Massachusetts for two hundred and fifty years. Such, too, have been the results in Maine, and, indeed, in other States where it may be admitted that the conditions for a successful trial of the experiment have been less favorable. I mean, the results have been not only failures to suppress the sale, but more conspicuously failures to suppress the use, of intoxicating drinks. Undoubtedly, certainly in Massachusetts for the last fifty years, since the temperance agitation commenced, there has been a steady improvement in the drinking habits of the better portion of the community. I fear that in the lowest classes the change has been in the opposite direction. But this change, careful observation tends to prove, has been the result of an improved public opinion, and not due to any form of law, except so

far as proposed legislation has led to public discussion. What is the remedy?

Let it be borne in mind that the thing to be done is to suppress intemperance, not to stop rum-selling. It may be admitted that, so far as any system of license or prohibition diminishes the facilities for procuring intoxicating drinks, the use might thereby be diminished; but all experience, I think, clearly shows that legislation has not materially affected consumption.

Noah did not buy the wine upon which he became "drunken" at a corner grocery; and from that day to this the means of intoxication have always been found when the appetite craved a stimulant.

This craving creates the demand, and attempts arbitrarily to check the supply have never yet been successful. The problem is not of easy solution.

"To mend a world's a vast design;"

and in the case of an evil so pervading all classes of the community, he is a rash man who claims that his prescription will prove a panacea for a disease which has so long defied the wisdom and philanthropy of modern times. Still, the task must not be abandoned as hopeless.

First, Let the good cause be kept out of politics.

Second, The community must be educated out of the error that alcohol is ever useful as food, as a stimulant, or for medical prescriptions, as restoratives of health and strength. These three topics would require volumes for their discussion and enforcement, and can only be suggested now.

Third, The social habits of the community, specially of the natural leaders of thought and public opinion, must be radically changed. "If meat make my brother to offend, I will eat no flesh while the world standeth, lest I make my brother to offend."

Fourth, If legislation is to be invoked at all, it must deal directly with the drinking, and not with the sale. Intemperance is to be treated as a disease, over which the victim has no control, and as a practice injurious to the drunkard and dangerous to the community. As a disease, hospitals should be provided, just as for insanity; as a habit, harmful to the individual and to the community, restraint is just as legitimate and just as necessary as for robbery or burglary. The right of society to deprive dangerous

persons of their liberty, of course cannot be denied. The methods of its exercise will readily be found when public opinion shall attack the evil-doers as well as accessories before the fact. We shall not restore the whipping-post of our fathers. I am not sure that they were not wise in subjecting the drunkard to the discipline of the stocks.

Fifth, I think that the province of legislation as to the unrestricted sale of intoxicating drinks has this extent, — to treat as nuisances places of sale which are dangerous to the community, and to abate them like other nuisances. This admits, of course, the right of regulation and prohibition; but it recognizes what all experience in the history of license and prohibitory laws proves, — the necessity of an intelligent and earnest public opinion to the enforcement and effectiveness of law.

Sixth, — A "civil damage" law, holding the seller liable for all damages resulting from the sale. "If an ox gore a man or a woman that they die; . . . and if the ox were wont to push with his horn in time past, and it hath been testified to his owner, and he hath not kept him in, . . . the ox shall be stoned, and his owner shall be put to death." (Exod. xxi. 28, 29). From the day when Moses transmitted this "judgment" to the children of Israel, this liability for knowingly injuring one's neighbors, whether embodied in the *lex talionis* or in the deliberate enactments of civilized Christian peoples, has been recognized. Surely it may properly be applied to agencies, whether through principals or accessories, of so many woes as result from the sale of intoxicating drinks.

Seventh, After all, and above all, education, "moral suasion," must remain the effective means for the suppression of intemperance. The history of the Washingtonian movement emphasizes this statement. That work showed greater results in reforming individuals and in diminishing the evils of intemperance, than all other agencies before or since. Combining the efforts of all the earnest friends of temperance, it was rapidly forming the public opinion which is essential to all works of reform; until, in an evil hour, legislation was invoked, — aimed primarily at the sale, and not at the use, of intoxicating drinks. The result was, that the sentiment of the friends of temperance was divided; education, especially of the young, was neglected. This great cause allied itself with politics. Notorious drunkards became eligible candi-

dates for the Legislature, if only they would vote for prohibition. Philanthropy was degraded by the alliance; and humanity, if not irreparably, has been very seriously injured in the house of its friends.

I am well aware how very far short this discussion falls of what is due to your Association and to the subject. I am well aware, too, how unpopular, how odious is the advocacy of what is called "free rum." This general feeling has grown out of the prominence which has been mistakenly given to the sale of intoxicating drinks, rather than to the use; thus directing public attention to sellers as the authors of all the evils of intemperance. But I am profoundly impressed with the conviction that the efforts in this direction have failed; that they have not appreciably diminished the sale — hardly in the slightest degree the use — of intoxicating drinks; and that the time has fully come for the union of all good men and women in some more effective means for the suppression of intemperance, — the greatest menace to our experiment of self-government, and to all the hopes of philanthropy and humanity.

APPENDIX.

While reading the foregoing essay at Saratoga, the time occupied being less than that taken by the other speakers, I interpolated from time to time a few remarks by way of illustration or amplification. So far as I can recall them, they were substantially as follows: —

Imperfect on my part as this discussion has been, and incapable as I felt of doing justice to it, I welcomed the opportunity to present the subject in a light in which it had not been viewed by many earnest friends of restrictive legislation. For many years I have been denounced by extreme prohibitionists as a "Rummy," and by the liquor interests as their bitter opponent. Since my mother tried to impress upon my mind in my boyhood that alcohol is a poison, and always injurious, (alas that I did not make the lesson the rule of my life!) I have believed, and do believe, that alcoholic stimulants, taken in any quantity, in any condition of the system, healthful or diseased, never do good, but are always hurtful. My conviction is, that, until the delusion that the good feeling

following the use of stimulants proves that they impart strength is dispelled from the minds, both of the medical profession and of the community, no permanent and general improvement in the drinking habits of the people can be expected. "Because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil." Waiving the question of the special inspiration of the "Preacher," we must recognize a universal truth in this declaration. Unfortunately, the artificial strength which follows the use of stimulants has led millions into the path which leads to blighted hopes, ruined health, and a drunkard's grave.

The theory upon which prohibitory laws are founded is, that liquor-selling is a crime. The failure of such laws grows out of the lack of the belief on the part of the community in the truth of the theory. A conspicuous illustration of this want of harmony between theory and practice is furnished in certain recent transactions in the good town of Quincy in our State. At the last annual town-meeting the voters of the town, by a large majority, elected an active prohibitionist as a police officer, with special instructions to enforce the restrictive provisions of the license laws. This gentleman proceeded, in earnestness and good faith, obeying the declared wishes of the people and his own sincere conviction, to adopt such methods for detecting violations of these laws as are universally approved in regard to other criminal laws. His efforts were too successful; and, in the full tide of successful experiment, he was removed by the selectmen. Had the town of Quincy been infested by a gang of burglars, the precise methods which this officer adopted for the detection of violations of the license laws would have received the unanimous approval of the town.

It is a common argument that the fees for licenses put money into the public treasury. To my mind, this argument loses all its force when it is remembered that such legislation lends the sanction of law to an injurious traffic. Again, when we consider the woes which result from intemperance, to which, certainly, the sale must be admitted to contribute, all money received for the allowance of such a traffic must be regarded as the price of blood; and I envy not the feelings of the father who is truthfully told by his son, "Father, I took my first degree in intemperance in the gilded saloon licensed by a law passed by your vote."

My remarks at Saratoga have met the criticism that I did not

suggest any effective, practical remedy. My kind critic, will you please suggest one? The civilized world has invoked for two or three centuries all conceivable aid in this direction, by means of legislation; and we are no nearer to a conclusion as to methods in which the best friends of temperance agree. Of the right of the community to protect itself against an evil of such magnitude, there can be no doubt. John Stuart Mill, in his work on "Liberty," says, "The liberty of the individual must be thus far limited: he must not make himself a nuisance to other people." Just where and how this interference for the protection of society is to be exercised, is the problem which has taxed, and thus far baffled, the wisdom of statesmen and philanthropists.

Legislation in Rhode Island.

While preparing the sketch of legislation in Massachusetts, I learned that Mr. Justice Stiness, of the Supreme Court of Rhode Island, read, before a committee of the Legislature of that State last winter, a paper containing a similar sketch of the legislation against strong drink by the State of Rhode Island and Providence Plantations. From the year 1647, when the first General Assembly was held, to the present year, legislation upon this subject has shown, as in Massachusetts, the anxiety of the people to regulate the sale of intoxicating drinks, with the same experience of failure and frequent change. The system, for two centuries, was one of license under various forms, with the exception that in 1654 a stringent prohibitory law was passed, forbidding the sale of "liquors" to Indians. Whether this was intended to prohibit the sale of wines to Indians, does not appear. In our Plymouth Colony, in the same year, an act was passed, as will be seen by referring to the Plymouth records for that year, prohibiting the sale to Indians of any "strong liquors." In the preamble, "wines and other strong liquors" are put in the same category. (By the way, referring to the legislation of the Massachusetts Bay, we find that "the Court, apprehending that it is not fit to deprive the Indians of any lawful comfort, which God allows to all men, by use of wines, do order that it shall be lawful . . . to sell also to the Indians so much as may be fit for their needful use or refreshing.") I do not find that prohibitory laws, as applied to the Indians in Rhode Island and the Plymouth Colony, had any marked effect of improv-

ing the drinking habits of Indians in those colonies over those of Massachusetts Bay.

In 1852 a strict prohibitory law was passed in Rhode Island. In 1853 amendments were passed, remedying some defects which had been found in the law of 1852. This law, with modifications from time to time in the direction of prohibition, was repealed in 1863, and a license system adopted in its stead. In 1874 the license laws were repealed, and a prohibitory law passed. In 1875 this was again repealed, and license laws again passed. With unimportant amendments from time to time, this is the system in Rhode Island to-day, — a record of earnest effort and uniform failure. Have we wandered over two and a half centuries of legislation

"To bring back but this message of despair?"

There is no occasion for despair. The whole people are wiser and stronger than any portion of them; and when public attention is aroused to the extent of the evil, and legislation, wisely directed, united with moral means, is invoked, effective remedies will be found.

Note A.

In the Act of 1646, quoted on page 101, the following curious provision also appears: —

"And all licensed persons shall annually pay to the common treasury proportionably to the place where he lives, the General Court renewing annually their licenses on such meet fines as they shall determine; & men of good report and ability to manage the calling shall be willing to take it: for the present, James Penn, Richard Fairbanks, and Hugh Gunnison are licensed for Boston, Mr. Long for Charlestown, and Mr. Clarke for Salem; each of these to pay 15[l] per annum; and whoever is now licensed in this jurisdiction shall, by the tenth of February next, bring in, or send, under their hands, notice to the auditor-general of their resolving to continue their licenses for a year, to begin the third day of March next, paying to the treasury for the fine above-named 15[l] a piece for that year; and in case they bring not or send such notice to the auditor by the time appointed, it shall be taken for granted that they have no mind to continue their licenses; and they are to take notice that they are no way injured if the Quarter Court put others in their rooms on such conditions, which the Court resolves to do, and so notice to be given to all other licensed men in other small towns to give in their resolutions to hold their

licenses on such terms as is prescribed by this Court, viz. Y^e^ persons in such of those towns by the yeare;

Roxberry, 2^l^	Ipswich, 2^l^	Newberry, 1^l^
Dorchester, 1^l^	Winnetsemet, 3	Salsberry, 0.10 sh^s^
Cambridge, 3^l^	Marble Head, 2^l^	Hingham, 1.10 sh^s^
Linn, 2^l^		
Weymouth, 0.16 s"		

In the Act of 1654 the full text referred to is as follows: —

"Forasmuch as notwithstanding the great care this Court hath had, and the laws made to suppress that swineish sin of drunkenness, and yet persons addicted to that vice find out ways to deceive the laws provided in that case, for the better preventing thereof, it is ordered by this Court and the authority thereof, that none licensed to sell strong waters, nor any private housekeeper shall permit any person or persons to sit drinking or tippling strong waters, wine or strong beer in their houses; and if any such seller of strong waters or private housekeeper shall be legally convicted before any County Court, any one magistrate, or Commissioners' Court, such person shall for the first offence be fined twenty shillings; and if the party so convicted be not able to pay his fine he shall be set in the stocks, where he shall continue one whole hour; and if any such seller of strong waters shall be convicted as aforesaid of a second offence of the same nature, he shall forfeit his license, and shall also pay as a fine twenty shillings to the Commonwealth; and if any private housekeeper shall be convicted as aforesaid of a second offence against this law, he shall pay a fine of five pounds; and for the third offence, such person or persons, being so convicted, shall be bound to their good behavior in twenty pounds bond with two sufficient sureties, or be committed to prison."

III. CONSIDERATIONS IN FAVOR OF LICENSE LAWS FOR RESTRAINING THE LIQUOR TRAFFIC.

BY LEONARD WOOLSEY BACON, OF NORWICH, CONN.

On this subject I am to maintain two theses: —

1. That it is a right and duty of society to do its best to protect itself by law from the mischiefs resulting from the abusive sale of spirituous liquors;

2. That in most cases the best expedient to this end is a License Law.

Both of these theses I shall maintain, out of my sincere and serious conviction, after prolonged study of the subject, as a citizen, as a temperance reformer, and as a minister of the New Testament.

In holding the former thesis, as to the right and duty of legislating on the matter, I am sustained not only by the unbroken series of judicial decisions confirming the constitutionality of such legislation, but by the general sentiment of citizens of the utmost sobriety of judgment as to the functions of law, and the least possible disposition towards meddlesome legislation. I am sustained, also, by the use and experience of civilized nations, which comes near to being constant and universal in favor of restraining the liquor traffic. Such testimonies as these are not conclusive, but they are very weighty. They create a strong presumption, and impose a burden of proof on the proposers of a new order of things which cannot be counterpoised by *a priori* arguments nor by quotations from Stuart Mill, even supposing the quotations to be apposite and the arguments consecutive.

Whatever presumption arises from the usage of Christendom, is reinforced by the condition of things in our own States. There prevails amongst us a peculiarly abusive and malignant form of the liquor traffic, — the American "saloon," "bar," or "grog-shop." Now, the American grog-shop, in its characteristics as a prevailing institution, is the product of the American Temperance Reformation. A statement so paradoxical ought not to be made without proof; and the proof is at hand. One of the earliest conspicuous documents of the Temperance Reformation is entitled, "*A Discourse on the Traffic in Spirituous Liquors, delivered in the Center Church,*

New Haven, February 6, 1838." In this, the orator declares (and his testimony is sustained by a great array of facts and statistics in an appendix to the Discourse) that "*in the progress of reform* . . . a change has taken place in respect to the traffic in ardent spirits. A few years ago . . . the retailer's shop was not a dram-shop. . . . It appears from extended investigation that, while the consumption of ardent spirits in families, and in manufactories and workshops, is greatly diminished, the consumption in dram-shops is dreadfully increased. It appears that nearly all the retailers in this community sell habitually by the dram. There are in this city from sixty to seventy shops and bar-rooms where a man may buy and drink on the spot that which will make him drunk." *

I presume it will not be claimed that the history of this little New England city of fifty years ago was exceptional. The sudden generation of a monstrous and noxious brood of dram-shops where none before had existed, is distinctly referred by this early leader in temperance reform to the temperance reformation itself. What the result on the character of the liquor traffic was at New Haven, it was elsewhere, so far as the temperance reformation extended. The argument from this fact is an argument *a fortiori*. The necessity felt and recognized in all countries is a more urgent necessity with us; and society is under a double obligation to provide redress for the mischiefs which society has engendered.

I am compelled to pass rapidly to the next thesis, which requires fuller treatment. But I note, by way of transition, that the author of this primeval temperance discourse appeals, for the proper and adequate remedy of the new mischief, to the old license laws of Connecticut,—"laws," he says, "which have been materially the same ever since the country was inhabited by civilized men, and which, though sometimes remissly administered, have never slumbered; laws," he adds, which "are designed to protect the community against the very evils which are actually flowing over this city from sixty-five dram-shops." The issue thus presented was taken up by the dram-shop keepers, who denounced the operation of the license laws as "persecution and the invasion of their rights," and complained that these laws might be applied to the extinction of their business. A fierce controversy followed between the temperance men and the keepers of dram-shops, in which

* Discourse, etc., by Leonard Bacon, New Haven, 1838. Pp. 4, 5.

the temperance men triumphed with great exultation. The license laws were successfully maintained as the protection of society against the abuses of the liquor traffic.

That early temperance reformer from whom I have been quoting is still living at a venerable age, in the full vigor of intellect,—the last survivor, so far as I know, of the eminent leaders of the young Reformation. And I am in a position to say for him that, after his more than fifty years of service in the cause of public morals, and after earnest observation and study of the various experiments in temperance legislation, he is convinced that the most useful law concerning the liquor traffic is a license law. But meanwhile a revolution has taken place in the moral system of the universe, and right has become wrong. That law, which in his youth was the ripe result of the best study of good citizens intent on the protectection of society from drunkenness, is declared, in his old age, to be a connivance and compromise with crime, that is itself a crime; and he is spitefully denounced as "a rummy" by those who claim to be the only true temperance men, for avowing the same principles for which in his youth he was once denounced by all dram-sellers and cheered by the approval of all good men.

A strange displacement, indeed, of the foundations of right and wrong! And the date of it coincides, curiously enough, with the time when unselfish patriots began to run for office on temperance tickets, and when it began to be discovered that the best qualification for a public instructor in the principles of morality, was to have graduated from the gutter.

I propose squarely to challenge the impudent pretensions of the recent device of legislation miscalled "*Prohibition*," to be the only morally right law relating to the liquor traffic, all others being essentially wrong. Until these pretensions are settled, all argument about the comparative usefulness of different liquor laws is inopportune. The wrong is never expedient.

I believe the force of these pretensions to depend, not only with the uncritical public, but with people that ought to know better, on a very palpable misuse or misunderstanding of three or four words, of which the first is *Prohibition* or *Prohibitory*. In the use of this word, it is assumed that the law, so-called, differs from other laws in that it *prohibits* sales of spirituous liquor, while the other laws permit them. A total mistake! All the laws in question prohibit some sales; all the laws permit some. They are all prohibitory

laws; they are all permissive laws. The difference between them on this point is simply a difference of more or less. But the use of the title *Prohibitory* is none the less a very effective little piece of humbug and clap-trap.

It will not seem credible to this audience, and yet I am certain of it, that the pretensions of the so-called "prohibitory" law to be the only one on the subject that is not positively immoral, are sustained in many minds by the double meaning of the word *license*. A great many blockheads are confused between license, meaning a permit, and license, meaning abuse of liberty. They honestly believe that when the State issues a license, it gives a permit to do mischief; and that a man who votes for a license law votes for licentiousness. It ought to be sufficient (but it is not) to show such people that a license to sell spirits no more sanctions the abuse of liberty, or confers a right to do wrong, than a license to be a hack-driver or an auctioneer, a license to sell gunpowder, or a license to preach.

Another perverted expression, much used for confusing people's minds on this subject, is the expression, "*the traffic.*" The word is used sometimes as synonymous with the keeping of dram-shops, and sometimes as comprehending, in part, the legitimate and useful business of the grocer, the druggist and the apothecary. And it is amusing to watch the agility with which "prohibitionist" orators will play to and fro between these two meanings. It is their constant practice to get a-straddle of this ambiguous middle, and go slashing away both sides of them, calling evil good, and good evil. Not only the common ruck of temperance lecturers and professional candidates for office, but even men otherwise rational and intelligent, manage to get their heads in a jumble about it. The Hon. Mr. Joyce invokes the aid of the General Government to "suppress the accursed traffic" altogether, and the Hon. William E. Dodge approves *. Mr. Henry Wade Rogers, in the Princeton Review, is very bold and "would prohibit and stamp out the whole miserable traffic." †

Of course they do not mean what they say; and when you press them with the import of their words, they are quick to tell you so. They do not mean that the whole traffic is accursed and miserable; part of it they believe to be useful and necessary; they have no intention of stamping out the traffic, but only of limiting and regu-

* The Church and Temperance. A paper by Hon. William E. Dodge, read before the Pan-Presbyterian Council in Philadelphia, Sept. 29, 1880.

† Princeton Review, January, 1881.

lating it in such a way as to get rid of the worst of it. In fact, they are so far from wanting to stamp out the whole traffic, that they are quite ready to go into it themselves, under proper regulations, on the coöperative basis. For this, when you get the thing down to a point, is the distinguishing characteristic of a prohibitory liquor law — not that it prohibits part of the liquor traffic — all liquor laws do that; nor that it permits part of it — they all do that; but that, while a license law regulates the traffic by permitting it, under certain regulations, to certain approved individuals, a prohibitory law regulates it by requiring the whole tax-paying population of every town to go into the liquor traffic together, on joint-account, each man furnishing capital and drawing dividends in the proportion of his taxable property. I am not denying, here, that there may be weighty and conclusive reasons in favor of the coöperative system in the liquor traffic. That belongs to a later stage of the argument. I only submit that as between the method preposterously called prohibition, and the method of license, there is no such moral difference, in the nature of things, as to entitle one, to be called essentially virtuous, and the other a *malum in se*.

Another distinction between the two methods of legislation is this: that the license system depends for the prevention of abusive and mischievous sales of liquor, partly on legal and formal regulations, and partly on the discretion of approved individuals selected for this trust as being (I quote the language of an old Connecticut decision) persons in whose "integrity and faithfulness to support the laws of this State for the suppression of an improper use of spirituous liquors" "special confidence" may be reposed* ; while on the other hand, the prohibitory — or more properly the coöperative — liquor-shop system attempts (though unsuccessfully) to provide for necessary and proper sales of liquor by legal formulas of description, leaving nothing to the discretion of the vendor; — unsuccessfully, I say, and am ready to prove it, if there were time, by citing the prevarications proposed and recommended by champions of the coöperative liquor law, by way of evading this objection.†

But I do not care, at this stage of the argument, to insist on a comparison of these two methods of legislation, except on this one

* Mr. Bacon's Discourse, 1838, p. 8.

† Dr. Carpenter, the eminent physiologist, and the favorite authority of total-abstinence men on physiological points, admits [Prize Essay on the Use and Abuse of Alcoholic Liquors] that there are "modifications of the bodily conditions short of actual disease, in which the occasional or habitual use of alcoholic liquors may be necessary or beneficial." To the question how these beverages are to be procured by

point, that there is no essential difference between them in respect to their moral quality. Recognizing this, we are in a position to appreciate at its just value the drivelling denunciation of "the wickedness of licensing men to sell the poison" which flows in a never assuaging flood from the "temperance" press and platform, and is heard sometimes from the lips of men who ought to know better.*

"To sell *the poison*." That is the very word. It is by a figure of speech, but no violent or unfit figure, that intoxicating liquors are spoken of as poisons. In fact, the very name "intoxicating" is founded on this figure of speech. Now what is the course which governments take with regard to other poisons? They *license* men to sell them. Why? Because they want to enter into a guilty conspiracy against the lives of their subjects? Because they want to put blood-money in their treasury by selling out the right to furnish facilities for suicide and murder and inadvertent homicide? No. It is exactly because they want to prevent these mischiefs that they enact laws forbidding to deal in these dangerous but sometimes useful articles, without a license, and requiring that licenses shall issue only to men who are specially trustworthy. By what process of logic do men conclude that this method of "licensing to sell the poison," which is right and salutary and praiseworthy when applied to arsenic and strychnine, becomes a "sin and folly" when applied to whiskey?

"Licensed to sell gunpowder," is a sign sometimes to be seen in well-governed towns. And it does not seem very unreasonable, to reasonable people, that an article so dangerous, so promotive, when it is sold by careless dealers to unfit buyers, of the destruction of life and property, should be intrusted only to men of known discretion and fidelity, licensed for the purpose. But why don't we hear a clamor against the "sin and folly" of licensing the sale of an article so dangerous and mischievous?

persons not sick, in order to such benefit, the answer commonly is that such a use is medicinal, and that liquor drunk with such a "directing of the intention" is not a beverage, but becomes a beverage by a change of the subjective moral state. There are two objections to this answer: first, that it is not true; and secondly, that if it is admitted that a person who is not sick may, under the "prohibitory" law, buy liquor "as a medicine" on the ground that it is beneficial to him in health, the amount of prohibition left in the prohibitory law is inconsiderable.

* See, for an instance of what sort of argument on this subject proceeds sometimes from the most honorable and intelligent sources, the Hon. William E. Dodge's paper on "The Church and Temperance," already cited.

But the favorite analogy under which the liquor-license law has been vilipended for the scorn of honest men, is that which likens it to a law for the licensing of houses of ill-fame.* "If one, why not the other?" is the question of these sagacious and discriminating minds, intoxicated with exciting eloquence about "the traffic," until they cannot distinguish a druggist from a dram-seller. Why not? Because "the traffic" includes a large proportion of business not only innocent but of indispensable necessity to civilized society, and the other line of business does not. The true analogy would be reached, if it were found in any community that the business of keeping boarding-houses was sometimes used as a cover for keeping brothels, and a boarding-house license law were enacted providing that no one but persons certified to be suitable and trustworthy, should be permitted to keep boarding-houses.

It is high time now that I should begin to hear the "practical man's" impatient remark, "O come, now! this is all very pretty talk about a license law to prevent the mischiefs of the liquor trade, but when you come down to the hard facts, you know it don't work so."

Yes. And I will tell you one main reason why it does not work so. It is because we have amongst us an active combination of men who, under the name of temperance and morality, are resolved that it shan't work so if they can help it. The defeat of the good results of that form of prohibition called a license law, is largely due to the corrupt and scoundrel alliance of the Maine Law interest and the tippling-house interest; to the systematic falsehoods of a no-license campaign, giving away the interpretation of the law to the enemies of society by representing it as a mere excise law; and to the deliberate declaration of Maine Law fanatics, when their pet measure is defeated, that they do not want to see any good accomplished by any other measure, and that they would like to see society given over to debauchery and corruption for awhile, in the expectation that men will at last be compelled to vote their ticket.†

* "The Church and Temperance."

† Judge Pitman, in "Alcohol and the State," page 189, urges this fixed resolution of his partisans as a serious reason why they ought to be accommodated in their choice of a law.

For an instance of the methods pursued by prohibitionist officials in pursuance of this policy of rule *and* ruin, I may be permitted to refer to "A Crime Against Society: Speech of Leonard Woolsey Bacon to the Citizens of Norwich, Conn., January 19, 1880, on the occasion of certain infamous proceedings of the officers of that town under the State License Law. New York: J. S. Ogilvie, 29 Rose St."

It is well for us to discuss with the utmost patience and candor the comparative efficiency of different laws, and to hold ourselves open to conviction as to the best measures for this or that emergency. But when we are approached thus by fanatics with monstrous assumptions of superior and exclusive virtue, and with warnings that if they are not allowed to have their own way they will lend no help, but rather offer every hindrance to the protection of society from its worst enemies, the only way of dealing with this "malignant philanthropy" is to withstand it to the face as *infestus humani generis*.

Unless now some more tenable claim to the assumption of essential moral superiority is put forward, we may consider this Pharisee of the statute-books to be brought down to its proper level, to be, judged, like the rest of us, by its fruits. I have very little time left for examining the record of its results, and ascertaining whether they furnish any sufficient counterpoise to the immense theoretical and incidental objections to it. Some points, however, may be set down as well established by experience:

1. It may be conceded, on the one hand, that the enactment of a so-called "prohibitory" law has commonly been followed, for a few months, by a large reduction in the sale and use of intoxicating liquors, and of the mischiefs attendant thereon.

2. On the other hand, it is either conceded or only faintly denied, that the law, elsewhere than in Maine, has commonly, after a few months, either lapsed into desuetude, or been repealed by a reaction in the public mind, leaving the last state of society worse than the first.

The question, therefore, turns on the testimony from Maine, which if it were unanimously in favor of the usefulness of the Maine Law, would really prove only that the law in question might be useful in States in all respects similar to that exceptionally virtuous commonwealth.

But the testimony from Maine is far from being unanimous on this point. The public confidence in the reiterated assurances that the Maine Law was a complete success in Maine, as well executed as any law on the statute-book; that the happy results of it were everywhere visible in prevailing temperance; that liquor-selling was driven into holes and corners; that there was no division of sentiment among citizens on the subject, but such unanimity in favor of it that no political party dared risk its popularity by

opposing it, — has lately suffered some rude shocks from which it finds it hard to rally.

(*a.*) The first was on occasion of that peculiarly disgraceful treason, in the shame of which nearly one-half of the population of the State seemed to be involved. When the doubtful question whether the government of the State should be subverted by as pitiful a political crime as American citizens had ever been guilty of, was at last hardly decided in favor of law and order, the country heard through "The Independent" from Brigadier-General Neal Dow, who was pictured before us as pacing the front of the State House at Augusta, his hands clasped beneath his expanded coat-tails, dilating with the Moral Grandeur of the spectacle,—half the population of his native State intent on petty treason, and every man of them sober and in his right mind! It never occurred to him how much more creditable to them it would have been if he could have proved that they were tipsy. But the Moral Grandeur which dazzled the Brigadier was not half so impressive on the country at large as the dispatch to the Associated Press announcing that the Mayor of Augusta had ordered all liquor saloons to be closed until order should be restored.

(*b.*) Further light upon the working of the Maine Law in Maine is derived from the "Temperance Extra," of the Women's Christian Temperance Union, Bangor, March 1, 1880. This unwilling witness exhibits the fact that the Maine Law in Bangor, for more than twelve months had been an absolute dead letter, and that the prevalence of drunkenness in the town was frightful. The venerable Dr. Cyrus Hamlin, after a long life-time of experience in both hemispheres, declared that he "had never seen so much drunkenness, among both men and women, as in Bangor the last few years." And this statement was corroborated by an unbroken line of witnesses. But when the fact was made the basis of a demand that the law should be put in vigor again, it was met by the stunning question whether the morals of the town were any better during the four years when the law was rigorously enforced. To this question the leading lady declined to answer, but the prevailing testimony was that the condition of public morals had been worse while the law was enforced than since it had been suspended. It appeared that (just as the Temperance Reformation had given rise to dramshops) the enforced Maine Law had given rise to forty drinking-clubs in that little town; and Deacon Thurston, ex-mayor,

who "wished the law executed, *if* it was possible, and *if* the public welfare would be promoted by it," declared that he "would rather have a hundred open bars than thirty club-rooms. . . . . He believed in the Maine Law; but before God, he would rather have ten bars than two club-rooms."

(*c.*) The representation of the enthusiasts of the Maine Law that "the traffic" was only "lingering secretly" in "some of the larger towns and cities," * seems to be weakened by the fact that in the Directory of the Liquor Trade, published in 1875, there were advertised the names and places of business, by street and number, of about one hundred and seventy-six professional liquor dealers in the city of Portland alone, and these were given only as some of the more important dealers.

(*d.*) The idea, sedulously reiterated, that the people of Maine, in all political parties, are a unit in support of the Maine Law, is modified somewhat by the fact that a new State and national party was organized last year in favor of Prohibition, on the explicit ground that neither of the other parties could be trusted for the maintenance of the law. When last heard from, the Prohibition party did not appear to have achieved a popular success.

(*e.*) It seems to have some bearing on the efficiency of the town-agency system in preventing abusive sales of liquor, that the campaign organ of the Prohibition party charged the Portland town-agency with being one of the worst grog-shops in that city.

Altogether, the somewhat conflicting testimony from Maine may perhaps be summed up and partly reconciled in the paradoxical but not contradictory statement of the foremost citizen of that State, that the Prohibitory Law has resulted in "less drinking — and more drunkenness."

I may be permitted, in conclusion, to go a little outside of the limits of the debate in which I have been kindly invited to take part, and express my conviction that the whole course of what is called "Temperance Legislation," in recent times, has suffered from the demoralizing influences that have infected the Temperance Reformation ever since it fell under the chief direction of the more or less reformed drunkards. Its tendency is to act as if there were no sin except tempting to sin, forgetful that if there is no sin but that of tempting, then tempting is no sin. This is naturally a fa-

* See articles by the Hon. Neal Dow in the "Independent," 1880.

vorite ethics with persons who might properly appear before society as penitent criminals, but who delight rather to figure as "poor victims," with a claim on popular sympathy and admiration. It palliates the offense of drunkenness, and instead of dealing with it with simplicity and directness by punishing it, goes at it by indirection by punishing acts which may be in themselves innocent, but which may be the antecedents of drunkenness. This tendency of legislation may best be illustrated by an incident in the life of a member of my own profession, a man of remarkably penetrating and logical mind,—I may add, an inflexible prohibitionist. Driving out one day in a buggy, he stopped to water his horse, and was perplexed to find the animal unable to get his head down to the trough. He got out of the carriage, and with that thorough and exhaustive method which characterizes his labors in the field of morals and social reform, he traced effect to proximate, to ulterior, to ultimate cause, and at length, with that firm and assured movement which goes with the consciousness of a mastery of the subject, he stepped up and unbuckled the crupper.

IV. THE MORAL STATISTICS OF THE UNITED STATES.

A PAPER BY THEODORE D. WOOLSEY, D.D., LL.D.

[READ THURSDAY, SEPTEMBER 8.]

The statistics for investigating the material prosperity of the United States are quite accessible, and are becoming every ten years more and more trustworthy and complete. The statistics of crime, a branch of the wide subject of statistics, which is both important in itself and necessary for studying every other branch, is by no means so complete as could be wished, nor within as easy reach as it ought to be, since the materials for it are drawn from imperfectly prepared papers submitted to the authorities of the separate States. The condition of education, again, is, to a certain degree, ascertained by the help of the bulletins of the Bureau of Education, of the general government, by reports of State officers, and by the decennial census. The external facts relating to religion, such as the number of denominations, the church members, annual admissions by baptism or profession, the ministers, the attendance on a given Sunday, the voluntary societies for religious, especially for missionary purposes, would not be difficult to ascertain, since much of this information is already published, and there is no reason why the reports should not be worthy of trust. And so, again, the statistics of health throughout the country may become accurate and careful, for there is an immediate and generally felt interest in knowledge affecting the lives of all.

But what is called moral statistics, although of extreme importance, and having a close connection with other departments of statistical knowledge, awakens but little public interest, and is often hard to be reached, unless it be in those civilized countries which have a dense population and a good system of courts and of police. A nation devoting its energies to the growth of capital and the development of new industries, is attracted by external signs of prosperity, and if population is sparse, does not become aware at once of the moral evils, which may be growing as fast as material resources increase. It is not strange, where so much has to be

done in the way of settling new States, bringing land into cultivation, founding new social and religious institutions, that a people is not aware of the growth and spread of moral evils, especially if these are not visible and obvious realities. But they force themselves at length on the humane observer, and then, perhaps, their importance will be unduly exaggerated. The subject-matter of moral, as of all other classes of statistics, is facts, so presented in successive periods of time, with all their accessories, that some tolerably safe judgment may be formed of their causes and possible preventives. Some of these facts, indeed the greater part of them, are crimes which come to the knowledge of men through police and judicial proceedings. When enough of them have been collected, through a long enough time to make it sure that no special causes have been at work, then we reach the conclusion that a progress in moral improvement or moral degeneracy is going on; and, as in examinations of disease, day after day, the physician is enabled to judge whether the patient is growing worse or better, so the statistician can ascertain the moral tendency of a country in particular directions. This knowledge the ancients did not have, and degeneracy seemed fatal. States must have, it was thought, a rise and a decline. But in modern times it is shown where the evil lies, and what it is, by collecting facts enough to form a judgment; and then society, by legislation and penalties, by benevolent efforts, by the increased energies of those who wield the moral and religious power of a land, may recover and get into a better condition than before. Thus the gathering and arranging of facts touching the evils of society, which might seem a very poor business at first, may be the necessary helper and quickener of all good efforts, whether of individuals or of communities. As Goethe once said, "Numbers govern the world, or at least show how it is governed."

Moral statistics relate chiefly to intemperance in the use of alcoholic drinks, the vice of gambling, and offences against chastity. (1.) The first of these evils is public, or at least tends to betray itself. For its existence there must be a class of persons furnishing the means of indulgence and generally ready to violate law, and a class of victims who are ever growing more craving and self-indulgent, unless reformation or punishment arrests them on their way. Drunkenness is the most common of all evils, and its statistics can be ascertained perhaps more easily than all others. Nothing can extinguish it except the seclusion of and prohibition to manufacture all

alcoholic stimulants, if that were possible. (II.) Gambling in its meaner forms can be watched and punished, but in its most respectable shape it is a very secret crime, and its evils cannot be fully known. It would be difficult, I imagine, to give the statistics of it in any very certain and trustworthy details. (III.) Offences against purity and the marriage tie are numerous. We may reduce them to the following heads:

(1.) First and rarest are the crimes against nature, as they are called. These, on account of their rarity and the horror they excite, are the least dangerous of all crimes. The statistics of them appear on the records of criminal courts. (2.) The principal offence against the marriage tie is adultery, which is either covered up by condonation or appears in trials for divorce, or is a crime by itself of one who has fatally disturbed the relations of a family. The extent of this evil cannot be accurately known, partly because it is a practice prevalent in parts of this country, to put into divorce-libels charges of adultery which have no foundation in fact, by way of support to other less serious charges, and partly because the crime itself is not capable always of detection. (3.) Those crimes against human life in its earliest states may be named next which often result from unchaste connections, such as abortion or fœticide, whether to cover up shame or from unwillingness to have children. Infanticide, a worse crime, is by no means so common, but both hide themselves from statistics. (4.) With these are connected seduction, a common crime in parts of the world, which is probably multiplied to no small extent by the seemingly humane institution of foundling hospitals. (5.) Where marriage becomes less frequent in proportion to the population, it may be an indication of another serious evil, that of concubinage, which ends either in regular marriage or in the portentous and dreadful evil of prostitution. Of this statistics have been collected in different countries, which are aided somewhat by the very questionable plan of giving licenses to sin, and by sanitary inspection. (6.) The crime of rape may be mentioned as standing by itself. It bears the same relation to seduction that open murder does to poisoning. (7.) Beside these, divorce needs to be spoken of, not as involving a crime, but as being generally caused by the wrong action of a married person. It is a violent termination of a union which, in its idea, is not to be dissolved, and cannot be except by some action of the state, based on the complaint of one of the

married parties against the other. As this is a public transaction, recorded on the books of the court, it can be more fully known than any other.

Divorce, then, differs in its publicity from all the other crimes and evils which the sexual nature of man renders possible. Those have to appear as crimes before they can come to light and into judgment. But this, not implying a crime of one party, and possibly being caused only by the unfortunate temper of the other, does not shun publicity, and could not if it desired so to do. The other offences which have a relation to purity and chastity may be effectively concealed, so that an estimate of the number of them cannot easily be made, and questions whether they are growing and spreading — questions most important to be known — are not answered without great painstaking, and perhaps then the worst is not told. Still, in most of the countries of Europe it has been thought to be a vital matter to explore the condition of society and find out, if possible, what moral diseases are undermining the moral health and strength of nations; and a great progress has been made in bringing these things to light. Is it not true, on the other hand, that we know little of the state of this country in regard to this class of offences which has been spoken of above; that little above the bare list of some of them has been published, and that we may be growing as a nation morally worse or better in some of the most vital points of human conduct, without knowing it? Suppose that the number of marriages had been gradually remaining the same for ten years, with an increase of population, would not such a fact excite alarm in regard to the morals of men of a marriageable age? And yet this, perhaps the easiest of all facts to ascertain, is not, I will venture to say, made known by as many as ten or even eight of the States of our Union.

But nowhere do we find more indifference and ignorance than in regard to the subject of divorce. As this is a very important transaction, affecting, it may be, the welfare of a family most vitally, since the looseness or strictness of the law itself affects the number of applications for divorce, as well as takes away from the minds of very many all sense of the sacredness of marriage, it ought to be known in every State how the law is working; whether the habits of the people in regard to divorce are changing; whether any changes in the law, or in the procedure of the courts, are needed to protect the sanctity of marriage, and to keep the founda-

tions of society from being undermined. What, then, is the state of our knowledge in regard to the number of divorces, and the causes for which they are granted in the several States of the Union? The writer of this paper, and an increasing number of others who are interested in the moral and religious welfare of their own States and of the land, can speak feelingly on this subject; for nothing hinders the progress of reform so much as the almost absolute darkness in which the number of divorces is involved through nearly the entire Union. In more than thirty of the States, if we are not greatly in error, nothing has been published, and nothing is known, by those who ought to know best. In those States where the matter has aroused the interest of many, and where, in late years, associations for the reform in divorce laws have been formed, the case is as follows: In Connecticut the first public statements of the mere number of divorces were drawn by private persons from the records of courts more than thirty years since; but after 1859 the State Librarian published annually tables of births, marriages and deaths, and of divorces with their causes. Massachusetts gave no reports until Mr. Carroll D. Wright appended a very excellent one in 1880 to his report on Labor. For Vermont we have reports since 1862, and for Rhode Island since 1869, more or less complete. Ohio has not neglected making known these statistics since 1865, and these are the only States which seem inclined to make the facts of these important subjects known. In New Hampshire and Maine private persons have searched the records of courts, and extracted materials enough to form an opinion of the number of divorces and their increase. These, with tables for one or more years, drawn from the records of one or two western cities, are all the sources from which we can form an opinion on a subject so deserving of study as the dissolution of marriage in this great country. Six-sevenths of the Union are, as far as this matter is concerned, *terra incognita*. We know that South Carolina grants no divorces, but we do not know whether this is hurtful or beneficial, because we have no authentic materials of its moral condition. It is plain that an enlightened country, interested in the moral condition of the people, ought not to allow this state of things to continue.

And here, in closing our remarks, we wish to say first that if any new reports shall hereafter be published, they ought to be more elaborate and detailed. The plan — or want of plan —

hitherto has been to give divorces only, with or without their causes, and these causes not always such that any reliance can be placed upon them. Thus, in many cases, it would seem as if adultery was put into the petitions, not as something to be proved, and insisted on, but in the hope that the suspicion of its being a true ground might influence the mind of the judge. This charge that the causes were unreliable was indeed publicly stated some years since by the State Librarian of Connecticut, whose duty it then was to present to the Legislature tables of divorces, with the births, marriages and deaths. A thorough system of reports, beside the annual number of petitions and the true causes for which the judge granted the application, ought to embrace the number of petitions or libels which are granted, and those that are dismissed; the sex of the applicant; the era of married life when the application was made; whether the parties had children or not; whether either of them had been divorced more than once; whether both parties were present in court; whether opposition had been offered by the party complained of; how many applicants had come into the State to reside, and how lately. All this, with whatever else needful to be known, is best found out in the court room, and can be put on record by the clerk of the court. If, for instance, it was found from a table embracing all these materials that few or no petitions were rejected, it would be *prima facie* evidence of the carelessness and overhaste of the judge, and subsequent applications would probably be more rigorously investigated.

But how, we ask, — and this is the last point to which we call the attention of the Association,—can the necessary knowledge touching the various branches of moral statistics be obtained and preserved? One very natural suggestion would be that to investigate all these subjects, together with all criminal statistics (including arrests by police officers, and the causes of arrests, criminal trials and convictions, the state of prisons, etc.), should belong to the official duties of the Superintendent of the Census every ten years. This seems to be practicable, if the State officials should be required by the laws of their respective States to make reports. And if they were so required, reports ought to be annual, submitted first to the Legislatures, and annually printed by them for the public. But there would be some difficulty in bringing all the States into one plan. And yet, if these reports were to serve a double purpose — that of being on hand for immediate use, and that of laying up stores for

the next decennial census — the plan might be carried through. As for statistical societies or private persons taking this burden upon them, this is hardly a thing to be looked for. The expense, the labor thrown on private persons, the difficulty of getting such a thing done in the newer States, might be insurmountable obstacles in the way. Nor is it likely that a large ramified society would take the work into its hands with enduring zeal. But I would not so much express an opinion how this ought to be done, as suggest to this Association, of which I have been a member from the very first, the inquiry whether it is practicable and expedient that the branches of moral and criminal statistics should be fully explored and made public, and how this could be best done.

V. THE DIAGNOSTICS OF DIVORCE.

BY PROF. WILLIAM C. ROBINSON, LL.D., OF THE YALE LAW SCHOOL.

The first act of a skilful physician, when summoned to the bedside of a patient, is to ascertain, if possible, the character of his disease. For this purpose he explores all those exterior phenomena which indicate departure from a state of health. He recognizes these phenomena as the result of certain influences at work within. He distinguishes between those which proceed from pure morbific action, and those, which are produced by the attempts of nature to resist disease or by the remedies already used. And only when this diagnosis is complete, and the true condition of his patient has been thus discovered, does he venture to assist nature in her efforts, to antidote the poison in which the disease originates, and to increase or counteract the operation of the remedies which have been previously employed.

The same course of duties devolves upon the social physician, when he undertakes the cure of disorders in the body politic. All social evils which become apparent to the public eye are symptomatic of some deeper evil, which lies hidden in the secret places of the social heart. It is not always easy to determine whether the particular symptoms that we see are the direct expression of this secret evil, or have resulted from the struggle of the higher nature to restrain and purge away the moral poison, or from the united action of former remedies and the disease. In this uncertainty, the adoption of heroic measures is fraught with many dangers. The substitution of a greater evil for a less, the interruption of a warfare in which alone the community can conquer its inherent vices, the neutralization of the only remedy by which the disorder can be healed, all these may be the consequence of forcible and hasty interference. It is the duty, and should be the desire, of the reformer to remove the cause of the disease, to aid the nobler manhood in its conflict against evil, and to promote the action of existing remedies. And this he cannot do, until he ascertains the real significance of the phenomena which he regards as indications of a social malady, and can ascribe to each its proper origin and value.

Divorce, like every other public evil, is an outward manifestation of interior disease. Its present terrible effects upon society, and the future ruin with which it threatens both the family and State, are readily discernible. The necessity for an immediate and thorough reformation is equally apparent. Social physicians, eminent for learning and experience, are seeking diligently for relief, and, by combined as well as individual action, are endeavoring to prevent its spread. The success of all these efforts depends upon the accuracy with which they read its symptoms, and upon the caution and discrimination with which their various remedies are applied.

The complicated phenomena which are suggested by the word "Divorce" may be grouped in three classes: (1.) Divorce laws and their consequences; (2.) The actual condition of the marital relation between those parties, in whose favor the assistance of divorce laws is invoked; (3.) The chain of circumstances, through which the marital relation has been changed from a solace and encouragement into an intolerable yoke. A careful scrutiny of these phenomena may lead us to a knowledge of the nature of the disease from which they spring, and of the remedy, in whose employment lies their cure.

I place "Divorce Laws and their consequences" at the head of this classification for several reasons. They are more apparent than any other group of these phenomena. They have for years been carefully examined and discussed. They are the especial, and sometimes almost the only object of attack, and their repeal is often advocated as alone sufficient to remove the social evil. They are the ultimate result of the disease, acting through the other classes of phenomena, and the comprehension of their real character and relations thus paves the way for an exploration of the more mysterious indications, which are still closer to the inner social life.

In examining the laws which permit Divorce, and regulate the method of obtaining it, it is essential to remember that, in their nature and design, they are *remedial*. Except in a remote and contingent manner, Divorce Laws do not cause divorces, or lead to the adulteries, desertions, intemperance and cruelty, on account of which divorces are procured. On the contrary, these laws result from those iniquities, not by a true causation, but through

the effort of society to remove the evils which these sins inflict upon the parties to the marital relation. The remedy may be worse than the disease, and, when considered in all its consequences, is unquestionably so, but it was, nevertheless, intended as a remedy; and, however insufficient or injurious, society will continue to apply it, until some better remedy be found, or until the evils, whose relief it seeks, have disappeared.

Any view of Divorce, which terminates upon this first class of phenomena, is therefore superficial and erroneous. It contemplates certain evils which are the joint result of social maladies and their attempted remedy, and which cannot be removed by withdrawing the relief afforded by existing legislative acts. It surveys the last effect of a long series of causes, each of which has the same operative force as ever, although its manifestation in a given direction be prevented. The repeal of divorce laws will not reunite divided households, reconcile antagonistic hearts, or revive purity and temperance in debased and self-indulgent dispositions; and, though these laws should stand upon the statute-book unchanged, divorces will cease whenever the relations between wives and husbands cease to call for legal interference. Reform in divorce legislation must go forward and not backward; it must proceed by substitution, not by mere obliterations; it must attack the evils which, at present, the divorce laws are intended to remove, or it will only cover up the social cancer from the eyes of men, leaving it hereafter to eat its way to the surface in some more hideous and destructive form; then, possibly, to be met by some new remedy, as wholly misconceived and as disastrous, as that which has been heretofore employed.

Divorce laws are not only remedial in form and purpose; they also represent and formulate the best judgment of society upon the problems which they undertake to solve. They were enacted by assemblies in which the entire citizenship of the commonwealth was represented. The attention of successive legislatures has been directed to them by proposed amendments and extensions, and, almost invariably, they have been extended, if not otherwise amended. Thousands of persons have availed themselves of the privileges therein accorded, have been legally delivered from the bonds of marriage, and have formed new family associations. During all this period there has been no public protest, no popular agitation against this course of legislation. No class of persons, not even the cleri-

cal body—usually foremost in the crusade against every recognized abuse — has endeavored to secure either its restriction or repeal. Individuals have indeed realized its dangers, and have devoted pen and tongue to the protection of society against impending ruin. But their efforts have as yet elicited no general response. Legislatures listen to their propositions and reject their reforms. Even the churches, as a rule, ignore the subject, as one in reference to which there is more danger in activity than in repose. All these facts indicate, what really needs no proof, that society regards divorce legislation as necessary, and its present form as productive of less evils than are likely to result from any substantial change.

Moreover these divorce laws have, to some extent, become identified with our social institutions. Since their enactment the present generation has grown up, and entered into possession of the state. To them divorce and marriage are ideas equally familiar, and so far as legal, and perhaps even moral, rights and obligations are concerned, one appears to them the necessary complement of the other. What in the youth of our elder men and women was a mere social experiment, has become an established custom, rendered venerable by tradition, and sanctioned by the example of their fathers. It is a terrible thought to utter, and yet in many cases it may be true, that marriage is contracted, not with the idea of life-long union, but with a definite recognition of the fact, that if the matrimonial tie be irksome it can readily and quickly be dissolved. It is entirely natural that the young people who have been married within the past ten years should entertain such expectations, and should allay their lingering doubts as to their future welfare by reference to a possible and easy remedy. To a generation thus educated, the restriction of divorce appears like the invasion of a vested right, or the abrogation of some indispensable condition of the marriage contract, and not the mere removal of a social evil.

The interior conviction which society expresses by divorce legislation embodies two propositions: (1.) That a permanent estrangement between man and wife ought to result in their permanent separation. (2.) That, if permanently separated from each other, neither ought to be condemned to a life of solitude, but should be allowed to form new ties of marital relationship.

The first of these two propositions is supported by too many solid reasons to be successfully attacked. Nature herself revolts at the idea of conjugal relations between individuals whose hearts are

burning with mutual hatred and ill-will. That "twain should be one flesh" while each, in spirit and in act, breathes malice toward the other, or that reciprocal abhorrence and disgust are the atmosphere in which a wife and husband are to rear their offspring, neither reason nor religion can ever tolerate. The interests of society require the separation of such persons, not only that crime may be avoided and the peace preserved, but that the wretched example may be removed from the eyes of their own children. The law expresses only the universal feeling of civilized and Christianized humanity when it asserts that, if the conduct of a husband or a wife destroys their mutual happiness, the duty of the outraged party, to remain in actual matrimonial companionship, is at an end, at least so long as the cause of separation may endure.

The second proposition can be also plausibly and powerfully maintained. No one can deny the hardship of a law which enables an evil-minded wife or husband to deprive the other of the happiness to be derived from home and children, or which punishes the error of a moment by a life of hopeless isolation. No man can contemplate without sympathy the fate of a husband, whom the misconduct of a faithless wife has bereft of honor, family, and the possibility of lineal descendants, or the desolation of the woman, whom the vices of her husband have left to struggle, deserted and heart-broken, for her daily bread. Each of these persons may possess capacity for connubial felicity. The woman might have been, and still may be, a happy wife and mother, were it but possible to sever the hateful tie that binds her to the man who has thus far been her ruin. The husband, were he free, could yet adorn a household as its honored head, and send down to posterity a prosperous and venerable name. The commonwealth is served by having for its citizens the fathers and mothers of happy families, not separated and miserable wives and husbands; and society finds relief for itself, as well as for its members, by correcting matrimonial mistakes and joining the emancipated parties in new unions, sanctioned by mutual confidence and love. Considerations such as these have satisfied not only our common people, but the more cultivated and thoughtful, that a divorce from the bonds of marriage is the proper, if not the necessary, remedy for the evils which result from a permanent estrangement between man and wife, from whatever cause such permanent estrangement may arise.

The arguments against this second proposition are based upon

the precepts of the Christian law, and upon the ultimate practical effect of divorce upon society. The Christian law, however, is a controlling force only among professing Christians, and by many, even of them, is regarded as having little reference to our modern social life, and as, therefore, properly disobeyed when opposed to the natural emotions of the human heart and the current of human sympathies. The ultimate social good receives still less consideration. Few persons will allow themselves to contemplate the changes which a score or two more years of free divorce are likely to produce in the sentiment of our people concerning the sanctity of domestic ties, and fewer yet will voluntarily forego a present happiness in order to avoid contingent moral injury. Most men have little faith in future good and little dread of future evil, and it is impossible to convince them, that living wives and husbands should spend their days in sorrow, through fear lest their relief may render the morals of a coming generation more corrupt, or its family relations less secure.

Our analysis of this first class of phenomena thus yields the following results: that divorce legislation is the attempt of society to remedy the ills arising from the permanent estrangement of married persons from each other; that such legislation embodies and expresses the settled convictions of society upon the proper method of disposing of these ills; and that the evils which attend divorce are not the legitimate result of the real social malady, but are the joint product of such malady and its attempted remedy. Hence, I conclude that divorce legislation is not the principal or proper object of attack, for those who truly wish to remove the disorders, and escape the dangers, to which the State and family are exposed. Whatever restrictions may be introduced from time to time into such legislation, the sentiment of the community will still remain unchanged; marital unhappiness will still continue; and society will still endeavor to afford relief. The proper object of attack is marital unhappiness and the causes by which it is engendered, and, when these have been overcome, divorce laws will be obsolete and their evil consequences will forever disappear. This leads us to consider the second class of divorce phenomena: the actual condition of the marital relation between those parties in whose favor the assistance of divorce laws is invoked. In studying these, a few well known facts become of great significance.

Any one, at all familiar with divorce statistics, must have recog-

nized the fact that but a very small percentage of divorce cases are contested. In some rare instances, the defendant desires the perpetuity of the marriage relation, and therefore actively opposes the divorce. A greater number of cases are contested on the ground of alimony, or the custody of children, or on some collateral matter. But, in the mass of suits, there is no contest. The respondent, though duly summoned, does not appear to defend, and the divorce is granted on the *ex parte* evidence of the petitioner. This fact denotes that both parties desire the discontinuance of the marital relation, that mutual affection and respect have ceased to exist, and that the decree of divorce simply legalizes a bodily and spiritual separation which has already taken place between them.

This conclusion is further indicated by the causes for which divorce is actually granted. Statistics of Massachusetts show that six-sevenths of the divorces in that State are obtained on the grounds of adultery or of desertion; the former manifesting a most flagrant faithlessness to marriage vows and duty; the latter plainly evidencing the cessation of its practical existence. In all these cases it is evident that, without reference to law, the marriage contract, so far as it embraces reciprocal rights and duties, is at an end, and that the parties are, to all intents and purposes, except the right to marry some one else, as if the marriage vows had never been pronounced.

Another fact, which, though less apparent in statistical reports, is well known to all who are acquainted with divorce proceedings, is that, in most cases, the married lives of the parties to the suit have been of very short duration. A divorce petition brought by a person who has been married over ten years, and, during all that period, has preserved and reciprocated the marital affection of the other party, strikes even a lawyer with surprise. In the vast majority of causes the parties are still young, with a marital relationship covering but a few years, and a disagreement and estrangement beginning very early in their married life. This fact indicates that the great strain upon the mutual affection and forbearance of the married pair, comes in the early portion of their wedded life; that, if their love and sense of duty endure this strain for a few years, the relation is likely to be permanent; and that, in the cases which appear before our courts, this love and sense of duty were extinguished by the discords in which their attempt to live together has resulted.

Another and a most important fact is that the great proportion of divorces are obtained by persons in the middle walks of life. The clients of the divorce lawyer are not often found among the poor, nor among the rich. In each of these two classes it may indeed occur that marital infelicities arise, which bring the injured party to the courts for relief. But the great current of divorces flows into the ranks of the working populations, whether among our city or our country people, into the class who earn fair wages, who are able to relieve their minor children from the necessity for labor, and yet themselves need a continual employment to enable them to live. This fact indicates that, in the lives of newly-married people of the working class, there are peculiar difficulties to be overcome; difficulties so great that youthful affection soon succumbs when brought into conflict with them, and that result in an indifference or hatred, upon both sides, which renders divorce a most welcome termination.

Finally, this fact deserves attention: that, without reference to changes in the law, the number of divorces is steadily increasing. So far as my own observation during the past twenty years, corroborated by the opinions of older and more experienced lawyers and judges, enables me to form an opinion, this increase is principally in the class out of which the majority of all divorce petitions came before. This fact indicates that, making due allowance for the increase in the number of the working class themselves, the difficulties which attend their early married life are growing year by year, and subjecting marital affection to a strain, which it annually becomes less able to endure.

That condition of the marital relation which invokes the interference of the courts, as read in the light of the foregoing facts, seems to be this: a condition of mutual estrangement, arising soon after marriage, and originating in causes, some of which operate with peculiar force among the working classes. If we can now discover what these causes are, and by what processes they break the strongest ties by which two persons can be united to each other, we shall at last perceive the real disease, to which all remedies should be directed.

Here, then, we reach the third class of phenomena, the circumstances by which marital affection becomes changed into indifference and hostility. That some degree of mutual confidence and love originally subsisted between the parties to these marriages, may

safely be assumed; as much, perhaps, as ever can be found between young men and women, who do not prepare themselves to appreciate the nobler qualities of others, by the conscious cultivation of such excellences in themselves. It is not in the direction of a want of such affection, therefore, that we shall find the real causes of the evil for whose origin we seek. On the contrary, these causes must be sought in the experience of the married pair, within their earlier years of married life, and I believe that we shall find most of them in the unfitness of the husband or the wife, or both, for the discharge of those duties which are imposed upon them by the marriage state. I believe that the roots of most divorces are hidden in the soil of social economics; and that it is the struggle to live, and to satisfy the requirements of modern society, which stifles marital affection, creates mutual disrespect, and finally produces open ruptures and irreconcilable estrangement.

This subject will bear an extended and a careful examination. The class of people concerning whom I chiefly speak constitute the great body of our population. They earn fair wages, live in comfortable houses, indulge in various amusements, and, as long as neither health or employment fail them, they enjoy their lives and make their families respectable and happy. They spend, however, as they go, rarely accumulating property, and leaving nothing to their children but a pleasant memory. In the conditions which existed forty years ago, this portion of our people encountered, probably, the fewest social difficulties of any class among us. The husband, whatever his occupation, had been bred to labor, and, by the time he attained his majority, was usually industrious and skilful, contented to be comfortable, respected, and free from debt. The wife had served a similar apprenticeship in her own home, had learned the accustomed household lessons, and was qualified to discharge her duties as a housewife and a mother. Upon their marriage, their first ambition was for their home. With the example of their parents before them, both realized that they must work; and they did work, with a common will and common purpose, to make life happy. The husband used his wages for his family, gave them his time, and in them found his pleasure. The wife depended on no hireling hands to do her work, but was her own cook, chambermaid, and laundress. Each was conscious that the other did his or her part, and, having been trained to it from their childhood, both naturally did it well. In homes like

these peace and mutual satisfaction reigned, and, if this state of things had continued to our day, the disease we are discussing might never have appeared.

At present all is changed. The social status of our middle classes has undergone a fundamental alteration. Wages have maintained an almost constant ratio to necessaries; but things innumerable, that were luxuries to our fathers, have become, or are supposed to be, indispensable to their children. The family of a well-to-do tradesman or mechanic, living according to modern social requirements, make demands upon him, altogether out of proportion to his income, as compared with those of a family of a generation and a half ago. The struggle to live has grown so intense that it absorbs the heart, as well as the brain and muscle, of the man, and even his amusements are unpalatable unless resulting in a fever of excitement. Among the older families, even this additional burden is sustained: thanks to the domestic skill and activity of the housewife, and the courage and self-reliance of the husband. But every careful observer must have noticed that the successive ranks of later families, down to the new households just crystallizing into being, are less and less adapted to this struggle, and are more and more crushed beneath their load. It manifests itself in untidy homes, in discouraged housewives, in untutored children, in the sacrifice of home comfort and personal credit to display, in chronic indebtedness, in the desertion of the family hearth and family altar for the theatre and saloon, in the reign of selfishness and greed which is eating out the nobility and courage of the American heart.

Into this sea of difficulty, growing every year more turbulent and threatening, the newly-married couples of our day are plunged. The youthful husband finds himself at once loaded with burdens wholly new and probably uncontemplated. Instead of the moderate demand for his weekly board, or his voluntary contributions to the paternal treasury, the comforts and sometimes the luxuries of life must be provided from his earnings, not only for one consumer, but for two. His endeavors to create a home and to raise a family multiply his difficulties. The demands upon his purse and patience are indefinitely increased, and, unless his wife is truly fitted for her household duties, his quiet and enjoyment are correspondingly diminished. Thus limited in all that constituted his pre-nuptial ease and privileges, unless he finds, in the society and encouragement of his

wife, a compensation for his new toils and privations, his repentance and rebellion are not likely to be long delayed.

What chance he has of such compensation may be discovered by a glance at the condition of the young wife, when she enters on her matrimonial duties. Her early life has been passed entirely at school, and her later leisure occupied in acquiring "the accomplishments." She can read and write, play and sing, paint and embroider; but her too careful and indulgent mother has spared her an acquaintance with the roasting-jack and wash-tub. Skilful, perhaps, at dainty cookery, she has not been accustomed to the work which, in every household, must be performed either by the housewife or by hired assistants. To such an occupation all her tastes and instincts are opposed, and that necessarily, for she has been educated away from it as sedulously as she should have been educated to it; and when these manifold and disagreeable duties are imposed upon her she is not only unable to discharge them properly, but rebels against her fate, and not infrequently casts the blame on him, through union with whom it has come upon her.

The outcome of this situation can be easily foreseen. The husband finds himself united to a wife unfit for her position, unable to make a home for him and for his children, incompetent to bear her part of the burden of life, and often needing some better trained, if not better educated, woman to take care of her. He knows that he has been wronged, that he has a right to a wife who can do a wife's work in his household, and that a woman, whose only capabilities are idleness and ignorance, ought never to have been a poor man's bride. She, on the other hand, contrasting her present misery with the freedom and comfort she enjoyed while still a girl at home, or self-supporting at the factory or shop, and conscious of her inability to satisfy her husband, soon becomes careless in her efforts, receives his reproaches with sulkiness or reciprocal rebukes, and openly laments the day when she became a wife. The bickerings which thus arise, by constant repetition, and perhaps by occasional stimulation from some meddling friend, grow into settled alienation, and sooner or later terminate in discouragement and separation. That this is not the history of a far greater number of marriages, than at this time find a fitting end in the divorce courts, is due neither to the excellences of our educational systems, or to the moral training of our young men and women, but to those apparently accidental ameliorations, by which Providence so often remedies the mistakes and follies of mankind.

In this view of the evils, which necessitate the greater number of divorces, the singular phenomena exhibited by divorce statistics are accounted for. We can understand why the very poor, who have been trained to labor in the same sphere in which their lives are passed, escape the grind and struggle which wears out wedded love. We see also why the rich (and this includes all those in whose burdens and obligations marriage makes no substantial change,) have so little occasion to invoke legislative aid. We can perceive the reason of the constant increase in divorces, alike in States in which, as in New Hampshire, the laws have been unchanged for many years, and in States, like Massachusetts, where wider facilities have recently been granted. We can account for the fact that, when the marital affection survives the strain to which it is subjected while the new wife and husband are learning to perform their respective duties, it is rarely ever weakened and destroyed. And we can see that, while the increase of luxury and self-indulgence has made heroic demands upon the labor, skill, and managing ability of both the parties, their youthful training has been becoming more and more unable to qualify them for the obligations they are expected to assume.

This conclusion as to the actual nature of the social malady from which divorce legislation has resulted, has found supporters on the other side of the Atlantic. A recent article concerning the proceedings of the London divorce courts contains the following statement:

"During the past legal year 643 divorce cases have been decided, and from 500 to 600 marriages dissolved. The vast majority of petitions for dissolution of marriage are from the lower middle class, and the working classes. The experience of the Divorce Court tends to confirm the opinion, that a great deal of the misery to which the working classes are subjected in their homes, arises from the inability of women, when they have got married, to render their homes comfortable and attractive. In other words, a great many of the women who get married are unfit for married life. On the contrary, their habits and training, if they can be said to have had any training at all, have only too often been such as to render them incapable of properly discharging their important duties in the domestic sphere. Rendered miserable at home, men rush to the public house or find solace in other places, and the misfortunes which follow it is unnecessary to enumerate."

The reliability of this conclusion is not affected by the fact that a very large percentage of divorces are granted on the ground of adultery. The statistics of divorce, like many other classes of statistics, create false impressions, except when read by those who are familiar with the subject to which they relate. That three-sevenths of divorces are granted for adultery does not indicate that no other cause of divorce existed, or that, in all these cases, adultery itself had actually been committed. The proof before divorce courts is often of the flimsiest character, and, in the vast mass of divorce cases, each occupying in its trial from three minutes to half-an-hour, it is nonsense to say that any thorough investigation of the facts has taken place. A suspicious letter, a threat of the accused repeated by the hearer after the lapse of years, and followed by an opportunity to carry out the threat, are sometimes enough to ensure a judgment for the petitioner. If the alleged adulterer were prosecuted for his crime, the evidence, on which divorce is freely granted, would be utterly insufficient to secure conviction.

Moreover, adultery is rarely ever the only cause for which divorce is sought. Desertion must have continued for a period of years before the marriage bond can, on that account, be severed. But upon proof of actual abandonment for a shorter period, coupled with evidence creating a fair presumption of adultery, many decrees are based, which, if resting on either of these causes, or if at all contested, would wholly fail. In this manner the instances of adultery are made to appear much more numerous than the actual facts will warrant; and, even in cases where adultery has been committed, it is often true that the domestic difficulties of which I have spoken are its occasion, if not its remote cause.

Beside this economic cause of mutual estrangement there are many others, mostly of a moral nature, by which affection is destroyed, and a united life is made impossible. Adultery, intemperance, intolerable cruelty, desertion, are such causes; acts, the nature and the effects of which need no discussion. For these causes the divorces of the rich and poor are usually obtained, while many of those, granted to applicants from the working classes, are nominally on these grounds, although the actual origin of their matrimonial differences lies deeper in the household heart.

If this diagnosis of the social evil, known as Divorce, has been correct, we are now in a situation to suggest the remedy. And, as

the most prolific source of the disease proves to be the unfitness of young married people for the discharge of their marital obligations, the apparent cure is to remove this unfitness by a proper education, and to prohibit the marriage of any person, whose fitness has not reached the necessary standard of perfection. This is the work, in part, of family and school training; a training, which is now beginning to be recognized as utterly worthless for the purposes of practical life, if it confines itself to books and dress, and does not teach the pupil how to *live*. Legislation can also do much by regulating marriages. It is absurd that an infant, who cannot bind himself to pay a borrowed dollar, is permitted to enter the most sacred of relations. The law should interpose in this matter with a strong hand. No person should be marriageable under the age of 21, and a marriage ceremony celebrated between persons, either of whom is under age, should be *ipso facto* void. The law should also require a period of public betrothal before marriage, a period long enough to enable the parties to be thoroughly acquainted with each other, and to prepare themselves for the important duties which they are about to undertake.

The law should also at once remove a temptation, of its own creation, to hasty and ill-assorted marriages. No breach of promise should ever furnish grounds for a suit at law, unless the promise be in writing, nor even then unless pecuniary damages have been sustained. Sad as the condition of the betrayed and disappointed one may be, society does not consult her interests or its own, by offering a fulfilment of the promise as a method of avoiding suit. The same thing may be said of bastardy and seduction suits. The law should give no encouragement to any man to marry a woman, whom he does not wish to marry, in order to escape the punishment of crime.

The moral evils which produce divorce are to be met by moral remedies. A sound religious and moral education of the young is here the only hope. Good people will not commit adultery, or become drunkards, or torment and abuse, or neglect their duty; but will bear and forbear, help and encourage, and smooth over temporary difficulties, until, by mutual adaptation, a permanent felicity may be attained. Such education is the work of all classes of men and women, dealing as parents with children, as adult citizens with their juniors, as examples to each other and the young.

The evils which attend divorce legislation are capable of at least

a partial alleviation. While this remedy will continue to be afforded, in spite of every effort to prevent its administration, it may and should be confined to its legitimate sphere of action. Divorce is a final resort, the last grand struggle of the healing art with the disease, the capital operation, never to be employed unless all other measures have been tried and failed. Except in cases of unquestionable permanent estrangement, where the mutual affection of the parties has been extinguished, and not merely suspended or temporarily transferred, absolute divorce should not be granted, whatever offence against morality the defendant may have committed. The spirit of the law, which is manifested in the condoning effect given to cohabitation after known adultery, ought to characterize the entire theory and practice of divorce; and no decree should be passed without evidence that the fault complained of has produced the evil which alone divorce is intended to remedy.

Again, the law should be so changed as to make it necessary to prove the alleged cause of divorce with as much certainty as in ordinarily contested civil cases. Every divorce case should be defended, either by the respondent, or by some public officer charged with that duty. In Connecticut, the attempt has been made to procure the passage of a law, imposing upon the public prosecutor the obligation to appear and defend all uncontested cases. In a similar manner, in the English courts, appearance and defence has recently been provided for. This simple addition to existing laws would probably reduce the number of divorces more than any other expedient that, at present, can be tried.

Again, to remove that inducement to obtain a divorce, which grows out of sudden passion for another, or a transient pique, no decree of absolute divorce should take effect until at least one year after the decree is passed. This restriction leaves to the petitioner all the protection in person and property which can possibly be needed, while, at the same time, it gives an opportunity for reconsideration and repentance, permits the cooling of passion, and might often result in permanent and happy reconciliation.

Finally, there are two classes of persons in our community, whose influence upon all these questions might be very great, and ought to be properly directed. These are lawyers and clergymen. Lawyers control legislation. In every legislative body they constitute the leading element, both from their familiarity with existing laws and from their acquired powers of penetration and persuasion.

And, as nearly all laws of great public interest pass into the Legislature through the Judiciary Committee, itself largely composed of lawyers, it is evident that the beginning and the end of legislation are in their hands. Lawyers also control the administration of law. They have the ear of the court. All divorce cases are at some time in their charge, and, if they chose, could be kept out of court, when sufficient grounds for a decree did not exist. Lawyers are also the class of persons who are especially interested in divorce legislation as a whole. Divorce practice is lucrative and easy. It is also fairly respectable; and, with such interest and power united in a body of men, so capable of protecting the one and employing the other, as the legal profession is known to be, they are able to thwart all present efforts for reform. Lawyers should be made to feel the moral force of the better portion of our community in this regard, and the righteous lawyers (and there are many such,) should be called upon to take a public stand against this evil, and to pledge themselves not only not to prosecute, but to discourage, all petitions for divorce which do not rest strictly upon legal as well as on sufficient moral grounds.

Clergymen might be expected to embark upon this crusade without external solicitation, but, like all other classes of men, they have, as a body, winked at this disease so long that they can now scarcely perceive it at all. They exercise, however, a vast influence, both from their personal character and prominent position, and should be summoned to practical and efficient participation in this warfare. Marriage is usually still treated by our people as a religious ceremony, and requiring the assistance of a clergyman. Let those, who believe that divorce is lawful only on the ground of adultery, refuse to marry any person who has been divorced for any other cause. The moral effect both upon themselves and on society would be tremendous. People would believe, at last, that the law of Christ meant something; and the line, drawn between the reputable Christian marriage and the mere civil contract, would cause many a swift petitioner to hesitate before putting himself or herself below the Christian line. In pulpit and in periodical also the clergy should make their voices heard upon the side of sound morality and social welfare; not fanatically condemning measures, the full import of which they do not understand, or advocating propositions which society is certain to reject, but cultivating a sound, sober, Christian thought, by the light of which these dark social problems may be illuminated and resolved.

V. THE EFFECT OF LAX DIVORCE LEGISLATION UPON THE STABILITY OF AMERICAN INSTITUTIONS.

BY THE REV. SAMUEL W. DIKE, OF ROYALTON, VT.

[READ SEPTEMBER 8, 1881.]

This paper is the result of such reflections as I have been able to make in the comparatively short time since the invitation to prepare it came to me. The special reading and the study of American institutions necessary for the proper discussion of this phase of the general subject, have been entirely out of the question. The chief line of thought, however, is one I have long felt needed presentation.

The discussion, as here presented in the thirty minutes allotted to this paper, is limited mainly to the fundamental principle of American *political* institutions. The famous phrase of Mr. Lincoln will serve our purpose in definition. Ours is a "government of the people, by the people, and for the people." The people are the source of all political power. They exercise authority for their own highest ends. Through their own action and by powers conferred on representatives of their own choice, the people themselves carry their own will into effect. The people are at once private citizens and public officers. It is an essential feature of our political system that the governed classes govern themselves.

But this liberty is not irresponsible or arbitrary. Like all true freedom, it exists only in conformity with law. Its claim to be rests on certain facts. The justification of it as a practical system is that it conforms so well to the great natural conditions which God has imposed on society, that it works well when fairly tried. Some of these underlying facts are free action and its necessary conditions. These latter are rights, because of their relation to free action. Free action itself is a right, fundamental to all other rights, because essential to the discharge of duty. Rights and duties are inseparable. The two are correlative, the one implying the other. If, then, our government is based on a doctrine of rights, it for that very reason, implies a doctrine of duty behind and in those rights,

which gives them vitality, force, and direction ; and this duty comes in connection with an apprehension of *the* Right, or, if some so prefer, the Good or the True.

American political institutions are, then, those which are based on the political freedom of the whole people, acting under the motives and ends of duty. In this way character becomes their end, and also their guiding and shaping force. A high degree of good character is the best promise of their stability. If freedom and rights are the forms which give them shape, duty and character are the living forces flowing in them.

Thus, resting ultimately on moral truth, our political institutions demand in the people the clearest perception of such truth and the fullest possession of moral integrity. They need, too, the greatest possible popular knowledge of those natural principles, laws and institutions which determine the character of nations, and which come into the fullest play, and, therefore, need the most exact adjustment, in a government professedly based on natural freedom. Having these things, our political institutions may give us the most stable of all forms of government ; but without their fullest realization freedom has greatly increased our dangers.

Religion and education are, therefore, the prime necessities of our American political system. They are the source of moral power and of that light by which the citizen is best able to act wisely. Our voluntary church system, our free schools, a free press, and a free platform are the natural concomitants, if they are not the very necessities of our political system.

But especially there must be with us, among the largest possible number of people, a good understanding of the institutions of all stable society, and a high moral regard for them. This knowledge is needed in their two-fold relation, as rulers and as ruled. In their legislative capacity and in the offices of private citizenship the people, as a whole, need a fairly good understanding and a correct practice of the fundamental institutions of society. Without this, every institution is exposed to the uncertainties of popular caprice, and may become an engine of evil, and so liberty prove self-destructive. Social machinery nowhere else needs such careful adjustment to perfectly natural forms as among a people where the tremendous power of political freedom is turned upon it through universal suffrage. There need, therefore, to be added to the greatest possible purity and excellence of individual character intelligent views of the institutions of society.

Fundamental among these are property and the family. There is scarcely an interest of man which is not reached through one or the other of these social institutions. Every onward movement is marked by an increasing excellence in one or both of them. Historically considered, property and the family have risen together. They are naturally bound up in each other; but the family is the more fundamental of the two. With the mass of mankind the family is the great incentive to the accumulation of property. The theories entertained of it largely determine the rules by which property is distributed through inheritance. The family is also the most potent influence that can be brought to bear upon the individual. Education and religion do much of their work through the family.

America is wonderfully rich in material resources. She is rapidly increasing in numbers. Her future is wrapped up in the problem as to what she will do with her men and her material; and by her very pre-eminence in these two respects she is compelled to have a sound and stable family, on peril of her life and national power. The United States of America, I venture to say, are more bound, by their peculiar institutions and problems, to clear convictions upon the family than any other nation on the face of the earth.

It is at this point that I would join issue with our lax divorce legislation, and point out some of its evil effects. By a lax system I mean substantially that which in New England now gives us 2,000 or more divorces annually, and in some of the States one divorce to every ten marriages recorded within the year, and which is doing much the same for many of the western States, with a tendency southward.* This legislation works evil in two ways: First, it grants divorces for numerous and trivial causes, six to fourteen in number; and, secondly, it tolerates a loose court procedure in many States, which, apparently, does as much to increase the number of divorces as the causes upon the statute-book. It is also accompanied by negligence in punishing adultery — a neglect, however, which makes some of the stricter States in divorce but little better, apparently, in morals than New England.

* For an outline of the statistics of divorce in this country, and related evils, and of their bearing on the family, see the lecture by the writer of this paper, in "Christ and Modern Thought;" Boston Monday Lectures for 1880-81: Roberts Brothers, Boston. The new and enlarged edition of ex-President Woolsey's book on Divorce, now in press, will probably contain both American and European statistics of great value.

The principle of this legislation should be noticed. It treats marriage almost wholly as a contract. Though it often concedes the peculiar nature of the contract, it still holds to contract as the main feature. Accordingly, its great use, not to say aim, seems to be to allow husbands and wives to settle their differences and adjust their wrongs by a legal dissolution of the marriage relation, with a chance to better themselves in a new experience. It has no clear, unmistakable recognition of the family as the outgrowth of marriage and a sacred unit of society, which it forces upon the attention of all; but contents itself in dealing with individuals in certain relations in a manner that, on the whole, cheapens the family by its spirit and methods, as well as by the reasons for granting divorces.

I single out four ways in which this lax system affects the stability of American political institutions. The first is *its effect upon the individual.* One tendency is to encourage unchastity. I think it directly and indirectly detracts from the chastity of the people. Its general influence upon the physical condition of the people is bad, but it especially affects their chastity. A strong race physically is an important condition of national perpetuity. Courage, valor, endurance, depend much on physical stamina; but nothing undermines this foundation of these virtues like licentiousness. This vice has wider and deeper ramifications than any other. It demoralizes man. It is the utter ruin of woman. It defeats the proper increase of healthy offspring. It is the bane of great cities and the curse of a luxurious time, — both conditions toward which we are hastening. It is the most neglected by the reformer and philanthropist, by the public teacher and officer of the law, of all the vices that prey upon our society, unless it be the insidious, rapid growth of the opium habit. Its relation to crime, poverty, and misery have not received a hundredth part of the attention that has been given to its twin evil of intemperance. I will not say as to its relative increase with time; but I do not hesitate to declare that, comparatively speaking, licentiousness is the great untouched vice of society in America.

The assertion is often made that easy divorce checks licentiousness. So far as the meagre statistics go to show anything, they prove that this is not true. On the contrary, the two have increased together. Divorces have doubled, or more than doubled, in twenty years past, and convictions for licentious crimes in Massachusetts,

from Berkshire to Barnstable, have doubled two or three times over, while other crimes, taken together, have not increased as fast as the population. I do not say that easy divorce causes all this, or half of it; but that it directly and indirectly encourages it. Our scanty statistics of crime and morals render accurate information difficult; but much careful inquiry increases my confidence in the opinion stated. Instances have come to light where the seducer has apparently resorted to successive divorces to carry on his infamous trade.

Illegitimacy has probably increased with the increase of divorces. I have been told that the liability of the Turkish women to capricious divorce is the cause of the frequent practice of criminal abortion among them. This, doubtless, has its effect in America. There are those to be found, also, who regard the opinions of society on this, as on other matters, as without any binding force in morals. They declare that legal divorce is scarcely more than a conventional observance of those who regard the opinions of society and can afford the expense of it; but which the independent in mind or the poor may avoid, if they so choose to do.

But, speaking to the thoughtful, it is enough to say that, since marriage in its result is both a moral and physical union (the two being inseparably connected in a true marriage), the cheapening of the marriage tie by easy and frequent divorces is inevitably attended with increasing violations of the sexual laws that govern its physical basis. Evils of this sort, as history abundantly shows, do not stand alone. It is impossible that they should for a long time. A mischief preying on the vital bond of the family — that is, upon the union of the two sexes in marriage — must inevitably send its poison through the whole system. The more one studies the practical workings of lax divorce laws and takes especial care to trace out their effect in society, the more, I think, he will find to convince him that in several directions these laws are seriously affecting the chastity of the people. As, where life is slightly protected by law, certain other crimes increase, so it is in regard to the family.

Secondly, this lax system *lessens the power of the family and home over the individual.* Easy divorce makes the home an uncertainty. Any one of a score of causes, real or fictitious, the sheer caprice of husband or wife, may break it up in the most sudden and senseless manner. A home exposed to such a vicissitude, and to the unchecked bickerings encouraged by it, becomes a mere place

of congregation for individual purposes. The system introduces what has been called the wolfish theory and practice of society into the sacred life of the family. It dethrones Nature, and puts caprice in her place. It tends to separate families and helps isolate the generations from each other.

Again, the glory of man above the brutes, and of the cultivated man above the savage is, to a great degree, in his power to draw motives from the past and the future. Culture extends the range of human motive. That man is best prepared for citizenship who comes to the discharge of its duties and to the enjoyment of its privileges from a home which has charged his whole being with the principles and purposes which only a permanent family relation and life can impart and continually bring to bear upon him. That citizen who has been reared in a home where the permanency of the marriage relation has never been in doubt, and who has been carefully trained by the motives of family life drawn from such permanency, has a prudence, a courage, an insight and a foresight, and a staying power that tend to make him a wise ruler and a valuable member of society. Neither the passions of the moment nor the perils of the times easily unbalance him. In this respect the work of a true family makes a contribution of untold value to the nation that depends on universal suffrage for its political power.

But our lax divorce system aims a blow at this element of stability. When one-tenth of the families formed in a State during a long period of years are broken up by the courts (most of them within a few years after marriage), involving at least twice as many more by their relationships, while still others are corrupted by the influence diffused through society, the permanency of the family and its beneficial influences in the State are sadly weakened or positively corrupted. The church, the school, and society do much of their work through the family. It is the healthy, forceful influence of the family behind the pupil, the member of the church, and society which powerfully aids the work of education, religion, and social improvement. Business, too, has an almost endless interest in the permanence of the family and the welfare of the home; and there is no surer measure of this power of the family over the individual for the good of every true interest of political freedom than the strength of the marriage-bond. It is, however, much like that subtle vital force in life — hard to test by rule or measure, but sure to tell in the course of a lifetime.

A part of this weakened influence of the family over the individual is, and will be, seen in a diminished influence of woman as such. The advancement of woman has always been justly held to be the sign and measure of the growing power of Christianity and the progress of civilization. Modern progress has done much for her, both as an individual and as woman. In common with the drift of modern society, her personal rights as an individual have received much needed attention. They, doubtless, need still more. She has also been elevated in her sex. But sex physically is a profound fact of Nature and society — next to life itself, if, indeed, we may except even that, the profoundest in nature; and, unless we are ready to challenge the lessons of history and the teachings of poetry, fiction, and social life, sex has wonderful significance from the mental point of view. The development, therefore, of woman, especially in her power over man as an individual, must hold with just firmness to two things. It must recognize her common individuality with man, and also perceive her distinctively womanly nature and its offices in society. To do the one without the other in true proportion, is to invite the ultimate failure of her cause in either and both directions, and unbalance the forces of society.

But our lax divorce system, through its false conception of the nature of the wrongs of the family, introduces an element of weakness just at this point. It treats the wrongs of the wife chiefly as those of a mere individual, proceeding in dangerous forgetfulness of the fact that she draws her very life as woman from the family, to which her sex unites her. It holds lightly to the truth that the sacredness of the marriage-bond, everywhere and in all circumstances, is the surest protection of her chastity, and holds within its keeping much of that love which is her life as woman. In attempting to protect her as an individual, this system blunderingly strikes near her heart or else dries up its fountains. It treats the wrongs of her sex as carelessly as those of a business contract; or, at the best, as having little higher sanction than the choice or caprice of an hour.

Now, so long as mothers and wives are a living power behind citizens and soldiers, and while the interests of the country demand the best possible of womanly influence over the individual, for so long will the nation be slow to lessen in any way that power of woman which is exerted through her sex. There will go along

with the just maintenance of the individual rights of woman the most careful protection of her womanly nature and of those rights which attend it. The spirit and method of this lax divorce system has a subtle poison in it for the influence of woman. It is part of an unbalanced individualism.

But, thirdly, *it inculcates a false idea of the family itself.* The last point referred to the influence of the family over the individual. I now come to its bearing on the *family*, which, I assume, has a form and existence of its own, whose just recognition and proper use are of great consequence to our political welfare. Unfavorable influences from many sources touch the family here; but no one of them brings more harm than does our lax system of divorce. The main conception of this system, as already stated, is that of adjusting the rights of mere individuals to each other and to society, though it, perchance, concedes that these individuals are in somewhat peculiar relations. A broken contract or an unhappy relation between a husband and a wife is about all that is thought of in the petition of the parties for a divorce. The infelicities of two individuals who have made a mistake in the choice of partners is pretty much all that enters into the mind of either the parties or the public; and the law lends support to this view. The sacred name of family — the soul of the home — is scarcely uttered in the whole business of a divorce, from beginning to end. The *unity* of the family and the place of it in civil society are not in mind at all.

In this way the seeds of false notions of the structure of society are widely scattered, affecting most those very classes whom the State can least afford to have corrupted by them. Civil life, all life to such, easily becomes sheer individualism in conception, and its living intensely selfish and narrow. One of the best means of uniting society is lost. The opportunities and motives for love and self-denial are deliberately lessened. The toleration of the system, in short, is a wicked encouragement of social disintegration, on principle of the precept, "every one for himself, with the devil" of anarchy "at the heels of the hindmost."

For, again, the institution of property is involved in this loose view of the family. The rise of property and the development of the monogamic family have been closely together. The interests of the two are nearly identical. Property is built into the family. Of the two, property seems the more dependent on the other. The

inner structure of the simple family, and the relations of families to their branches, have much to do with the problems growing out of wealth. The principles of the tenure of land and of inheritance are largely determined by the laws governing the family. In abolishing primogeniture and entail, we in this country trust more to the freer flow of property in the more natural channels of the family, to regulate its grave questions. Wealth among us is also left more to natural influences in other ways; and to these considerations must be added those suggested by our immense material resources, demanding vast organization for their development, which brings the evils incident to large capital and many laborers.

A strong, widely-diffused family life, giving the largest number possible the greatest interest in property in land and other forms of material wealth, must of necessity be a good part of our defence. Universal suffrage, with the power it gives to mere numbers, demands large common interests powerful enough to override bribery and corruption and hold voters to the great objects of the ballot. A clear knowledge of the sacredness and value of the family and its needed home does much to supply this common bond in civil life. The motives of individual interest are strongly fortified by those which come from the family. The nation would be far stronger than it is now for grappling with some of its present and future problems, if the American people had as clear and strong convictions upon the nature, place, and rights of the family in civil society as they have acquired by a century and a quarter of discussion and experience concerning the individual. Has not the curse of Mormonism come upon us in part, at least, from this very neglect?

But here stands this lax system of divorce, holding the most important place in the law of domestic relations, to give out its false notions under the authority of law. It deals with the bond of the family, and so sheds the light of its doctrine on the family much as the laws of homicide do upon the value of human individual life. It both mistakes and cheapens the bond of marriage and leads to the neglect of the interests held within the tie. It casts the shadow of a baleful influence over the whole problem of the nature and work of the family. It disintegrates at the very point where there should be compression and the force that comes of a vital union. Instead of correcting, it hastens the individualizing tendency of modern law and modern economic forces. It encour-

ages the destructive notion that the individual only is the true social unit. It gives aid and sympathy to Mormonism and to those other social corruptions which are based on the plea that the family is merely a conventional institution which a selfish or "progressive age" may discard. It puts off what I sometimes think may become a great national duty and privilege, the setting forth a bill of rights and a declaration of independence, in which the family shall have its first adequate recognition at the hands of civil society, as it long ago was set forth in the wilderness of Perea by the founder of modern society, who cast into it the seed of the modern family as well as that of human freedom for the individual.

This brings me to my last point — that, in this lax system of divorce, we have *a false remedy, that both intensifies the evil it aims to relieve and puts off the cure and powerful help we may expect from a true system.* This lax legislation really proceeds on the theory that a large number of marriages, or rather, families brought into being in marriage, have no right to exist, and that society is the better for their dissolution. It, therefore, weeds out the unfit, or consents to their voluntary termination. This remedy for ill-sorted marriages is strangely akin to the old Spartan custom of destroying deformed children for the good of the state. Its spirit savors of the society that left its ill-formed children, its deaf mutes, its insane, its idiotic, and aged to care for themselves or perish.

But there came a time when, under Christian teaching, the right of each soul born into the world to its life and the essential conditions of well-being became dominant. That idea, growing out of the doctrine of individual responsibility, has done more than any other for civil society. The beneficent institutions of the times are among its fruits. It has made social science what it is.

Now, suppose that society rise to a like conception of the sacredness of the family. Let it come to be possessed with the idea that, however ill-begotten a marriage may be, having once been consummated it is as holy as the life of the meanest individual. Suppose this idea be wrought into society as its counterpart has been; that religion and charity, philosophy, and social, political and economic science pour their combined light on this neglected factor of all society, and the especially needed one in the American system. Suppose that we change our method. Instead of permitting the destruction of ill-formed families, let us do by them as we are doing with vicious and defective individuals. Let the terrible acts

of licentiousness be ascertained — a vice that strikes the family quite as much as the individual, and which, so far, has not had a tithe of the popular attention given to intemperance. Let marriage become the subject of adequate instruction. Let infanticide and criminal abortion be scorched with the thunderbolts of popular indignation. Let the wrongs of the suffering family become the inspiration of the pen and of the lips of the orator until our land shall ring with them as it did with the wrongs of the slave. Let law find that the true social unit must have *some* recognition, at least, as a legal unit, *some* force as a political unit, on peril of national weakness from an undue strain put upon the individual. Who will say there are not possibilities along the line here laid out of great consequence?

There is a work here for ourselves and progressive society everywhere. Modern society seems put to a strain under the intense individualism of the times. It may be our privilege, through the force of circumstances, to lead in a fuller discovery of the nature, uses, and rights of the family, and put them along with our accepted doctrines of the individual. The nation was born in throes over the rights of man as an individual. We went through the late war to put these rights beyond the possibility of dispute in establishing the unity of the nation. This has left us with a relative excess of individualism — an excess chiefly of an incomplete political development. We now need to find the true family and make it, far more than it has been, the connecting wheel between the State and the individual, enabling both to act upon each other in the best way. This may not be exactly the historic family, but it will be the natural, divine family.

This will push on the cause of woman as an individual wisely and safely, for it will bring more and juster influences to bear upon her, and give her cause the corrective of a rational growth of the whole idea and force of the family. The rights of wives, mothers, and children will be seen in better perspective, while legislation for woman in her other relations will be more just.

In a word, when American political institutions cease to find the centre of all their doctrine in the individual, and begin to get an equally just hold on both the individual and the family, perhaps in some sort as their common *foci*, may we not expect them to become more stable, more capable of imparting the fullest measure of their blessings to the American people?

Our lax divorce legislation directly hinders anything like this form of progress. It is a resort to an expedient, weak, injurious, and heathenish in spirit and method, to get cheaply and quickly what can best be had from a principle. It is unworthy the close of the nineteenth century. It savors too much of the last, decaying periods of the Roman Empire. It is afraid of the courageous incidental suffering that is the sanction of a great natural law and a mark of the divine estimation of the family. It is possible, in my judgment, for a sound divorce system to grant divorces for a dozen causes for a time, just as law may use capital punishment for half a score of crimes; but human progress will lessen the one practice as it has done the other. A true legal system will have a clear conception of the goal before it, in divorce for what is at once the only natural and scriptural cause, and will hasten on the steps of an imperfect society towards the desired rule by its forms of procedure, and diligent culture of public opinion. While the imperfection of society demands, it may, as I have said, yield to it; but its very way of yielding should be made to impress on all the profound worth and sacredness of the family, and so hasten the adoption of the more excellent way.

I know how obscure and even far-fetched some of these alleged effects of a lax system will appear to many; but I am confident that mature reflection will increase the number of those who will recognize them as real, and, therefore, very dangerous. It is their subtle character that makes the worst of their mischief. *The root of the whole matter is in the family.* Reform in divorce legislation will come best with a thorough study of the fundamental problem. Certain disintegrating tendencies in modern society are common to both Europe and America; but they exist in more marked forms here than elsewhere. These, together with the problems growing out of Mormonism, divorce, and the practical, pressing questions of the social condition of the colored people of the South, of the Indian problem, of the fusion of the immigrant classes with our people, and the dangers from the rapid development of our immense material resources, combine to make the family one of the most urgent of our great questions. The divorce question by itself is grave enough; but, taken in its true relations, it becomes vast, indeed. But thus, only, is it truly seen.

PAPERS OF THE HEALTH DEPARTMENT.

I. ADDRESS OF THE CHAIRMAN,

WALTER CHANNING, M.D., OF BOSTON.

During the past year the Health Department has undergone important changes. Shortly after the General Meeting of 1880, Dr. David F. Lincoln, of Boston, who had been for some time Chairman of the Department, resigned that position. It is with much pleasure that I take this public opportunity of testifying to the value of Dr. Lincoln's work as an investigator of hygiene and public health. Careful and patient in his methods, his results are of permanent value to all persons interested in these subjects. It should be remembered also that, during his connection with the Department as Chairman, the efforts to obtain laws to regulate the practice of medicine in Massachusetts were inaugurated under its auspices. These efforts are as yet unsuccessful, but to this Department, none the less, belongs the credit of having discerned the necessity of making renewed attempts against medical quackery, which is such a wide-spread source of misery in Massachusetts, as it is also in other States where laws have not been framed for its regulation.

In December last, at a meeting of the Council of the Association, held in New York, changes were made in the Department Committee, and it is now composed of the following persons: —

Walter Channing, M.D., Boston; D. F. Lincoln, M.D., Geneva, N. Y.; E. M. Hunt, M.D., Metuchin, N. J.; W. G. Wylie, M.D., New York; Prof. W. H. Brewer, New Haven, Ct.; J. C. Hamilton, M.D., Mobile, Ala.; George E. Waring, Jr., Newport, R. I.; Emily F. Pope, M.D., Boston; J. S. Billings, M.D., Washington, D. C.; S. B. St. John, M.D., Hartford, Ct.; David Hunt, M.D., Boston; Charles B. White, M.D., New Orleans, La.; Horatio Bridge, M.D., Chicago, Ill.; Henry B. Baker, M.D., Lansing, Mich.; John Rauch, M.D., Springfield, Ill.; Elliot C. Clarke, Boston; E. C. Seguin, M.D., New York; Dr. Plummer, San Francisco, Cal.; A. N. Blodgett, M D., Boston; Mary Putnam Jacobi, M.D., New York; C. F. Wingate, New York; Elisha Harris, M.D., New York; E. W. Cushing, M.D., Boston.

It will be seen these persons have been selected from almost all sections of the country, and (what I believe has not been the case before) two ladies have been added to the Committee. Both of these ladies present papers on very important subjects to-day. Dr. Emily Pope, a well known physician of Boston, has, after much labor, both on her own part and that of others, gathered statistics on the subject announced in to-day's programmes, — "The Practice of Medicine by Women in the United States." The statistics are unique in character, not having been put together before for the same purpose, and, as bearing on the success of women in positions heretofore held by men, will have great value and interest. The name of Dr. Mary Putnam Jacobi is so familiar that it hardly need be said that anything she presents here will be the result of deep, exhaustive work on her part. It is earnestly hoped, therefore, that every one will be present to-night to hear her paper, as well as the interesting discussion which will follow. The treatment of insanity is one of the great questions of the day; particularly are we all, as members of families, concerned in its moral treatment in the early stages; and Dr. Jacobi, therefore, in selecting her subject, "The Moral Treatment of Incipient Insanity," may teach us lessons that will be of life-long use.

The Department has held several meetings during the past eight months, for the purpose of selecting subjects for papers at this meeting — and, on comparing views, it was found that insanity was the subject uppermost in the minds of all. Allied to this was the care of inebriates, which I shall briefly consider, further on in this paper. Next in importance the subject of drainage presented itself, and Mr. Edward S. Philbrick, of Boston, well known throughout the country as a sanitary engineer, kindly consented to prepare a paper on "House Drainage," dwelling especially on its disposal in the country. His paper has not been received, however.

During the past month, the attention of the whole world has been drawn toward the International Medical Congress held in London. The gathering together of so many scientific men from all parts of the world, and the discussions which have taken place among them, have served to clear up many doubtful matters, and to eliminate errors, and have given an impetus to further investigation which could have arisen from no other combination of circumstances. The public generally can hardly realize the great progress now being made in medical science, the results as yet not

having directly affected the general health of the community; but the truth is, that the fanciful medical theories of centuries are being gradually thrown aside. We are studying medicine as an exact science, and in time, as we better appreciate the conditions of disease,—that is, as we more clearly know the physical interpretation of objective symptoms, we shall better understand alleviation and, more particularly, prevention of disease. If we look at the methods of research presented at the recent Congress, we find them essentially practical. Anatomy, physiology, and pathology are the pathways now being trod by the most distinguished teachers the world has ever known. No more striking illustration of the tremendous strides recently made in medical science can be found than in the address of Prof. Huxley on the "Connexion of the Biological Sciences with Medicine." He says: "The body is a machine, of the nature of an army. . . . Of this army, each cell is a soldier, an organ a brigade, the central nervous system, head-quarters and field-telegraph, the alimentary and circulatory system the commissariat. . . . The efficacy of an army, at any given moment, depends on the health of the individual soldier, and on the perfection of the machinery by which he is led and brought into action at the proper time; and, therefore, if the analogy holds good, there can be only two kinds of diseases, the one dependent on abnormal states of the physiological units, the other on perturbation of the co-ordinating and alimentative machinery. Hence the establishment of the cell-theory in normal biology was swiftly followed by a 'cellular pathology' as its logical counterpart. . . . Pure pathology is that branch of biology which defines the particular perturbation of cell-life, or of the co-ordinary machinery, or of both, on which the phenomena of disease depend. . . .

"Pathology is the analogue of the theory of perturbation in astronomy, and therapeutics resolves itself into the discovery of the means by which a system of forces, competent to eliminate any given perturbation, may be introduced into the economy. . . . It appears to me that there is no more hopeful indication than is to be derived from a comparison of the state of the pharmacology of the present day with that which existed forty years ago. . . . There can surely be no ground for doubting that, sooner or later, the pharmacologist will supply the physician with the means of affecting, in any desired sense, the functions of any physiological element of the body. It will, in short, become possible to introduce into the economy a

molecular mechanism which, like a very cunningly-contrived torpedo, shall find its way to some particular group of living elements, and cause an explosion among them, leaving the rest untouched.

"The search for the explanation of diseased states in modified cell-life; the discovery of the important part played by parasitic organisms in the etiology of disease, the elucidation of the action of medicaments by the methods and the data of experimental physiology,—appear to me to be the greatest steps which have ever been made toward the establishment of medicine on a scientific basis. I need hardly say they would not have been made except for the advance of normal biology."

Such words as these seem almost incredible, and yet all recent investigations are constantly adding new facts to establish their validity.

Among the most striking papers presented at the Congress was that by M. Pasteur, of Paris, on "Vaccination in Relation to Chicken Cholera and Splenic Fever." By his remarkable series of experiments he has succeeded in obtaining a virus which protects these fowls and animals from these diseases, and he has saved the lives of thousands of animals by his process of vaccination. In his own words, "In the space of fifteen days we have inoculated, in the department surrounding Paris, more than 20,000 sheep and a large number of cattle and horses." Other kinds of virus he has also successfully experimented with, and it is impossible to say to what an extent human and animal life may in the future be saved by these means.

Among other brilliant addresses was one by the world-renowned Virchow, of Berlin, on the "Value of Pathological Experiment," mainly an argument in favor of vivisection, which he showed was absolutely essential to the real advance of medical science; and one by Dr. J. S. Billings, of this Department, on "Medical Literature." It is pleasant to state that the latter address was one of the marked successes of the Congress.

Turning in another direction, it will be interesting to look briefly at the work accomplished in the Section of Mental Diseases. In this Section we find the same high standard which prevails in England and on the Continent, and is generally lacking in this country. Dr. Lockhart Robertson, well known in America from his writings, spoke of Lunacy in England. He did not consider the increase of insanity so great as it appeared, being due largely to

the greater diligence with which lunatics are now sought out and secluded. He did not think that private asylums should be abolished, though not believing in the custom of treating the insane for gain. In this position he differs from other authorities in England, who would abolish all private asylums. Among other subjects attracting much attention was that on which Dr. Clouston read a paper, namely: "The Teaching of Psychiatric Medicine." He dwelt on the importance of a knowledge of mental disease by the student, and the prime importance of gaining this knowledge by a face-to-face converse with the patient. Questions on mental diseases should also be set at examinations. Dr. Hack Tuke, Dr. Maudsley, Dr. E. Forbes Winslow, Dr. Mould, and Prof. Ball, of Paris, all warmly advocated the absolute necessity of a study of mental diseases by the student as a part of his proper professional training. These opinions are interesting at our meeting to-day, as similar ones were strongly set forth by me in the meeting of this Department held here a year ago.

Dr. Motet, of Paris, Prof. Tamburini, of Italy, Dr. Alexander Robertson, Dr. J. C. Bucknill and Dr. Leségue, all presented very valuable scientific papers, and Dr. Benedikt, of Vienna, read a paper on the "Brains of Criminals," in which he claimed to have arrived at the positive result that the brains of criminals differed from those of well-conducted people by a tendency of the fissures to run together. The general opinion of the Section was, however, that these criminal brains were of a simple type, and similar to ordinary brains of inferior character and development.

Prof. Ferrier, who was present, made some interesting remarks on the paper of Prof. Tamburini on "Cerebral Localization and Hallucinations." He said that the labors of various workers in the field of localization, while not agreeing as to the exact limitations of particular areas, yet determine, beyond question, the existence of distinct regions in which impressions are received, and that hallucinations occur from the morbid excitation of motor centres. . . . These facts of localization, once established, will lend physiologists the most valuable assistance, and if this line of investigation is carried out we shall arrive at a localization both as to subjective and objective aspects, which will be of enormous influence, and in time will become the basis of practical treatment both of nervous diseases and insanity.

I come now to the special topic of my address,—the Care of

Insane Criminals and Inebriates. As the treatment of insanity has gone on improving from year to year, we have become more and more convinced that though, strictly and correctly speaking, it is a disease of the brain, the subject cannot be cured by a few doses of medicine and care in a hospital. In fact, the treatment of insanity is as complex as the moral, social and physical treatment of the world at large. In insanity we have man with his ordinary habits, propensities, trains of thought, to a greater, or less degree, but perverted, or changed, in a thousand ways; the ordinary mask of social decorum has fallen and he shows his weaknesses in broad daylight. In spite of these numerous changes, which it requires great care to detect, the insane man still preserves, in almost all cases, his former ideas of the ordinary routine of life. He wishes for the same rooms, clothing, food, class of associates, amusements, occupations, &c. He may not derive the same pleasure from these things — his delusions may seem of such a nature as to make it appear that he wishes to debase himself, but study his case closely and we shall see that he still craves the surroundings he has been accustomed to, both social and moral; for he is still susceptible to good or bad influences, and perhaps even more so than when well. Therefore, it is felt that the old-fashioned mode of hospital classification, the putting together of the good and bad, the rich and poor, is losing sight of what may be of the greatest importance in the patient's treatment.

No system of psychology has been able, as yet, to demonstrate the whole nature of insanity. Here we have a little man going about with his theory of physical disease. He says insanity is very much like a broken leg, and most persons can be put together in one building and grouped as surgical cases would be. Another man sees only the intellectual side, endeavors to separate the mind from the body and then leaves them to look after themselves. To truly understand classification, we must be so broad and free in our views that we can look at the moral, social and physical aspects of the question and adopt such measures as will best promote the personal comfort, general happiness and health of the lunatic, who is sent to the hospital for protection, as well as for medical treatment, so-called. Without going into minute details, as I propose here to only consider two of the classes into which the insane will in the future be divided, it may be briefly said that those principles of general economy which obtain in ordinary

society must be adopted as part of the system of an improved classification. Thus we do not find the pauper and the cultivated man of moderate or large means coming into contact in social life, and as a rule in the insane hospital we should still draw the same social lines. More attention should be paid to the social relations of the insane than any other class of persons confined in institutions. We may say, perhaps, that persons of different social condition can be treated together without transgressing the laws of nature, but certainly the morally good can not be associated with the bad without overstepping the bounds of natural propriety. It is manifestly wrong to expose the innocent, upright, suffering lunatic to the assumable contamination of the criminal, the convict, or other person of perverted moral sense. In the sight of God, such a person may, from heredity or disease, have ample excuse made for him in the world to come. This divine example of tenderness and sympathy should be followed here, and we should care for the morally weak with great solicitude, but first of all society must be protected, even at the cost of the unfortunate, from every degrading, demoralizing influence.

There is, to-day, a large number of the morally defective and irresponsible class to be found in penal institutions of all kinds, as well as floating about the country at large. It is often said that there must be a vast increase in this class, demands are now becoming so frequent for their care and maintenance. Like many other matters however, in this country, we have never before been urgently called on to examine into its actual conditions. As we do so now, we find, from causes not to be given here, that there is a certain increase, how great, as yet unascertained; that improved institution management has inspired confidence on the part of the people which impels them to take their defective ones from their lowly homes, and trust them to the tender mercies of the State; that heretofore we have entirely under-estimated the number of the insane and defective classes. As a proof of the latter point I would refer to the report of the Statistical Secretary of the Conference of Charities, Rev. F. H. Wines, read in Boston, July 28, 1881. Mr. Wines was appointed by General Walker to collect the statistics of the "Defective, Delinquent, and Dependent Classes," for the census of 1880. Though his statistics are by no means, as yet, complete, he says: "Enough progress has been made in the investigation to enable me to say that all former estimates of the number of the

insane, &c., fall far below the actual fact. For example, in the State of Illinois, according to the census of 1870, there were 1,625 insane, and at the present census we have already (in round numbers) the names of 5,000. Similarly there were reported in 1870, 833 deaf mutes; in 1880, we have found over 2,600. The number of blind was reported, ten years ago, at 1,042, but now we have the names of over 2,700. Of idiots there were reported, in 1870, 1,225; the number has now risen to 2,650. Of course there has been no such surprising increase in the actual number of these classes. I am consequently forced to the conclusion that after the present census shall have been published, no one will ever quote any former census as authority on this subject." The same enquiries directed to the morally defective and irresponsible, would display the same discrepancy between the estimated and actual number.

In what follows, I shall briefly consider institutional provision for the criminal insane and inebriates. Institutions for these two classes should be so arranged that moral defectives of all kinds could find appropriate care and treatment. I add the word irresponsible to apply particularly to the inebriate, for he may or may not be so morally diseased as to entitle him to the treatment of the insane. Though legally, in many cases, responsible, he is practically the most irresponsible of beings, as far as care of himself is concerned, and must be placed under a treatment that will take this peculiarity of the case into consideration.

Public attention has been repeatedly called to the subject of the care of insane criminals, and for years this class have been a source of the greatest anxiety to insane hospital authorities. Particularly during the last year the subject has come under discussion.

In various States it has been agitated for various reasons. In Massachusetts, for instance, owing to the necessity for increased accommodations for the insane, the subject of further division for the various classes is under consideration. In his last message to the Legislature, the Governor strongly advocated the separate treatment of insane criminals. The Legislative Committee on Charitable Institutions, after careful consideration of the recommendations of the Governor, referred the subject to the next Legislature. In New Hampshire the Governor made similar recommendation, couched in strong language. From time to time hospital trustees have urged the immediate separation of this class. New Jersey is again loud in her demands for the treatment of insane

convicts (the class of the criminal insane that are sent to a State institution) in a separate building or asylum. Of this class they have at present, thirty-six. The trustees say in their Annual Report for 1880, "To place insane convicts in the same institution and in the same apartments with insane patients from the families of our best citizens, is inconsistent with every dictate of propriety. . . . . Governor Parker called the attention of the Legislature to it, in his message of 1875. Governor Bedle, in equally strong terms, presented the matter in 1877. The Senate passed a bill providing a remedy, but it slumbered in the lap of the Committee of the House. Cannot a wing for lunacy be provided for insane convicts in connection with the State Prison? If this cannot be done, a separate building, sufficiently secure and suitable for the purpose, should be erected for their accommodation." At the last meeting of Insane Hospital Superintendents, at Toronto, the subject of the treatment of the criminal insane was under discussion; the result of which was the appointment of a committee of three, consisting of Dr. Gundry, of Maryland, Dr. Fauntleroy, of Virginia, and Dr. Fisher, of Massachusetts, to consider the advisibility of separate provision for idiots and imbeciles, epileptics, dipsomaniacs, and the criminal insane. Though a criminal insane asylum exists in England, a large number of the criminal insane are treated at the ordinary insane hospitals, and in several reports during the last year, the difficulty of the treatment of this class has been referred to by hospital superintendents.

In the State of New York there has been, since 1859, a criminal lunatic asylum, which has done much to relieve asylums and the State Prisons from a dangerous class, and at the same time to render the lives of the latter much more comfortable. This asylum has received much the largest share of its patients from the prisons, and was for some years but little more than a department of the prison. Now, however, it is quite free from political influence, and already demonstrates what can be done for insane criminals in an institution particularly adapted to them. It is found that with proper surroundings and under mild and judicious influences, they can be made into a quiet, comparatively harmless, and very tractable set of persons. When we think what desperate characters many of them have been, how few have been brought up to distinguish right from wrong, the results are gratifying. This success comes from having the surroundings suited to the peculiarities of

the criminal, thereby rendering it possible to give him more direct personal attention. Here, for the first time, the criminal is brought under those influences from the lack of which he may have suffered, possibly, for his whole life. Feed him on really good food, not crusts or prison fare; give him a good bed, fresh air, and suitable occupation, and have him feel that he is not to be treated like a vicious animal, and his blunted sense of propriety will often show itself in a surprising manner. It is delicate work, however, for no material is more brittle than the base and warped natures of the criminal class. I do not expect frequent recovery, combined with reformation, though insane criminals often do recover. A change in principle cannot be expected; the most that we can hope for is to develop the good rather than the bad side of the criminal, in this way modifying his mode of life in the future.

Should all persons be brought together who were fitted for the criminal asylum, the number would be large. Were each prison, jail, and reformatory to be thoroughly examined by persons skilled in the investigation of insanity, we should find a very large number of insane persons who now rank as sane. The ordinary prison test of insanity is violence, and, therefore, the poor, miserable dement or melancholiac is passed over, as no more than stupid or wantonly vicious. It is impossible, as trials are now conducted and criminals sentenced, that the exact mental status of the criminal should be understood. We have, consequently, many mentally deficient persons brought up for sentence who should be sent to the asylum rather than the prison. They, however, show none of the ordinary outward indications of insanity, and hence their disease is not recognized. In the future it is to be hoped that we shall be able to have a medical examination made by a physician (with a good knowledge of insanity) of persons arrested for crimes of all kinds, who will make a return to the judge before the prisoner is brought up for trial. Courts will then have some definite knowledge of the true mental condition of the prisoner, and be better able to modify or dispense with a sentence.

We should, however, under such a law, need a criminal asylum, where doubtful cases could be sent for observation, as well as where undoubted cases could be retained. Judges now have no alternative in sentencing ordinary criminals; the prisoner goes to jail unless notoriously insane, first, because his insanity is not recognized, and, second, because if it were there is no place to send

him. There is something radically wrong in sending persons to prison, over and over again, who are too undeveloped morally to know right from wrong, or to earn a livelihood. Prison discipline will not correct a constitutional defect. It is neither good law nor economy, and betrays on the part of the State an ignorance of nature and a blind adhesion to the barbarous customs of former centuries.

There is a very large number of persons of criminal tendencies, bad moral inheritance, and ungoverned passions, who, under minute investigation, would show sufficient mental weakness to be called irresponsible, if not insane. If such persons could go to the criminal asylum for observation, and then be transferred to what might be regarded as a colony for moral defectives, who would belong neither to such an asylum, the ordinary insane hospital, the prison, nor the almshouse, we should relieve our cities of a very dangerous and, in many instances, homicidal class.

The care and reformation of drunkards is, it seems to me, one of the most vital questions of the present day. It is a question which States have evaded or handled with feeble courage, and as yet but little progress has been made toward its solution. Over and over again, the puny efforts of religious and other institutions have been proved to be almost futile; and we have occasionally heard the recommendation made that inebriates should be sent to reformatories for long periods of time, under definite sentence; still, however, we seem to be as far off as ever from the much needed solution. We say at once that the cure of the drunkard must be abstinence for years, and we say as readily that this plan of enforced confinement for a definite period is an excellent one; but when we look further into it, the factor of the personal liberty of the subject presents itself, and generally proves a fatal obstacle. But after all, why should this be so fatal? In the inebriate we have a combination of the lunatic, the moral imbecile, and, often, the criminal. The moving, direct, exciting cause of his disease is ready at his hand, to be used when he pleases, whereas, in cases of insanity, the causes are complex and often impossible to determine. We have, then, in the drunkard, a man liable to paroxysms of a disease (to be brought on at any moment by readily available means), which is in the highest degree dangerous to society, his family, and himself. The insane man we do not scruple to deprive of his liberty, but in what case could there be more need of protection or more

justification for treatment in a proper place of detention, than that of the drunkard? Let us do away with the argument, in this case, of the sacred rights of the subject, etc., and remember that society must first be securely protected before there can be such a thing as personal freedom.

The inebriate needing restraint and treatment should, in the first instance, be proceeded against as is the insane person, for, though he is to be treated, if we hope to effect a cure, as a sane person, he is, morally, the subject of a disease. He should be examined by physicians who should report on the case to the proper court, which should further look into the case and, on sufficient evidence of his condition being such as to necessitate treatment, he should be committed to the inebriate reformatory. Up to this point the procedure would differ from that in the case of the lunatic merely in specifying a definite length of time for treatment.

The reformatory itself, however, and the treatment pursued, would be entirely unlike any other in the country. The management should be of the graded kind; not that there should be any perceptible moral difference in the inmates, but rather that there should be a stimulus for those admitted to improve, and also that the bad influence of the worst class might not act injuriously on the better classes. The good results of a graded plan of treatment are seen in the Reformatory Prison for Women at Sherborn, Mass. This prison contains in the neighborhood of 220 inmates, and is entirely managed by women. Four grades are made of the prisoners, who are promoted from one to the other grade, according to their good behavior marks. It is found that nearly all are eager and anxious to get into the better grades, — only a small per cent. falling back and remaining in the lowest. The women are in good health; and instead of the morose, sullen, irritable expression, so common to all varieties of convicts, have on their faces the appearance of hope and cheerfulness. The authorities at Sherborn find from their experience, that depraved women, perhaps the hardest class in the community to successfully manage, can be made into quiet, peaceful and fairly respectable persons. These results are accomplished by the high character of the women at the head of the institution; by the thoroughness of the individual treatment; by the great care exercised in the use of the graded system, and by the excellent quality of the food and clothing, and the pleasant surroundings.

The reformatory should be in the country, some distance from the cities, but, of course, easily accessible by rail. It should have attached to it a very large farm, for purposes that will be spoken of later. There should be several large detached buildings, which might be called cottages. These could be used for various purposes, the different classes of inmates being placed in the different cottages, instead of separated in one building. Some of these cottages could be used for paupers, who would constitute the bulk of the population; others for the middle classes, and possibly one or two for the rich inmates, for undoubtedly there would be such, should the laws and public sentiment combine to give the institution the recognition to which it would be entitled. These cottages need not be near one another, the different inmates need not be acquainted necessarily, but they should all be under one general management, in order to take advantage of the various appliances which could not be found where very few could be treated together.

The treatment would principally consist of work, every one not incapacitated by sickness being expected each day to perform a fair amount of labor, and this should be the rule regardless of the price paid. Various kinds of workshops would be provided, where various trades might be taught.

During the summer, work on the farm would constitute the chief means of employment. I think farm labor — the cultivation of fruits, vegetables, flowers, etc., — has not received sufficient prominence in providing occupation for the insane. We often see large gangs of lunatics going out to work on asylum-farms, but it appears to be hard, unwelcome labor to them, partly for the reason that it is done to utilize their labor, to help in the general economy of the institution, rather than to awaken an interest in Nature. It is work, in my opinion, suited for the best classes who have had no taste for mechanical pursuits, but are from instinct or education fond of Nature; and once out at work on the land, they will lend some sentiment to what seems to the lower orders of society, the hardest kind of drudgery. What more delightful than to breathe in pure air, look at beautiful views, and, by working for Nature, to enlarge and develope our knowledge of her? We daily learn secrets and gain an insight into animal and vegetable economy that adds fresh interest to life, and tends to purify the mind. Then, too, nothing is more easy to learn, no preparatory study is necessary, as any one can at once begin to work at something. The

farm should be large, not only that there might be sufficient land to raise all needed crops, but also that there might be sufficient space for the different classes of inmates to have gardens by themselves. Some rich man might enjoy a good-sized flower garden for his own use alone, and should have the privilege. Connected with the institution there should be schools, a chapel, bowling-alley, billiard-room, and recreation-room; also teachers of music, a band, a military company, etc.

The institution should be under the management of a large staff of medical officers; and if the number of females warranted it, there should be a separate institution for them, managed perhaps by women. The staff should be large, in order that individual treatment might be carefully followed up. This treatment would consist in a thorough knowledge of each person's character, and efforts to find such occupations as would best develop the general health and strength of mind of the person. It is to be hoped that the example of these officials would be of the greatest service in helping to bring about the needed reform. A chaplain more interested in helping and sympathizing with the inmates than in inculcating religious doctrines, would have a great field of usefulness. The length of time required to make the treatment successful would probably be at least three years. How much of this it would be well to pass in the institution, beyond one or two years, would depend upon the circumstances of the case. Much of the time might be spent at home in the regular business of the inebriate. He would, however, still remain under observation, and report at stated intervals to the superintendent, in order that a strict watch might be kept over him.

It is hard to remember, and frequently we find the drunkard and his friends losing sight of the fact, that chronic inebriety so seriously undermines the health, that often a period of years of abstinence is necessary before the nervous system may be said to be sufficiently strong to bear any unusual strain. Until we do learn to recognize this great importance of time, we shall be only partially successful in our efforts to cure this so-called disease; but, in the mean time, we must endeavor to teach its great value, and obtain by law what the weakness of the sufferer and the sympathies of his friends will not allow.

II. — THE PRACTICE OF MEDICINE BY WOMEN IN THE UNITED STATES.

A PAPER READ BY EMILY F. POPE, M.D.,

WEDNESDAY, SEPTEMBER 7, 1881.

The objects of this paper are to show to what extent women are practising medicine in the United States,—whether the majority of women-graduates in medicine devote themselves to its practice,—how far their pecuniary success shows a demand on the part of the public for educated women-physicians,—what effect the strain of practice has on their health,—what proportion of them marry, and with what results to their professional career. In endeavoring to fulfil these objects, we shall confine ourselves almost entirely to the results of statistics, gathered from women-physicians throughout this country.

The medical women of the United States have, with very few exceptions, received their diplomas in this country, and, to a large extent, from schools devoted exclusively to the instruction of women. The establishment of such schools became a necessity, since the majority of the medical colleges have hitherto declined to matriculate women. For a long time it was also almost impossible for them to obtain any clinical instruction in hospitals; but, during the past few years, opportunities in this direction have been more numerous. Many have supplemented their deficient advantages here by work in foreign hospitals, but this is, of course, only possible for those who are possessed of considerable means.

The first woman-physician ever graduated in this country was Dr. Elizabeth Blackwell, an Englishwoman, who received her degree at the College of Geneva, in 1848. The first medical school for women was founded in Boston, in November, 1848 (the same year Dr. Blackwell took her degree), under the name of the "Female Medical Education Society," afterward the "New England Female Medical College." This school continued, through many vicissitudes, until 1874, when it was merged into the medical department of the "Boston University," a homœopathic institution. The "Woman's Medical College of Pennsylvania" was incorporated in

March, 1850. It is now the largest medical school for women in the world. In the autumn of 1868, the "Woman's Medical College of the New York Infirmary" was started in New York city, chiefly through the exertions of Drs. Elizabeth and Emily Blackwell. This was the first medical school in the country to require a three years' graded course of lectures as a condition of graduation. In 1871, the medical department of the "University of Michigan," the largest medical school west of Philadelphia, opened its doors to women, who receive the same instruction, from the same professors, as the men students, but mostly in separate classes. This College now requires of its graduates a graded course of three years' instruction. In 1870, the "Woman's Medical College of Chicago" was founded in connection with the "Woman's Hospital" of that city. Several other colleges, viz.: the "University of Syracuse," "Cleveland Medical College," "Howard University of Washington," the "University of California," "University of the Pacific," and "University of Iowa," have each graduated a few women. There are also various homœopathic and eclectic schools throughout the country which admit women, but want of time has prevented us from making any attempt to collect statistics from them.

Our plan has been to send a circular containing certain questions to every graduate of the above institutions whose address we could obtain, and upon their answers we have based our statistics. It has been quite impossible to find the correct addresses of a considerable number of these graduates, especially of the older schools. Many students, on leaving college, hold no further communication with it; while the fact that a number of them have changed their names as well as their addresses, makes the matter still more difficult. There have been sent out about four hundred and seventy circulars, to which a little over three hundred answers have been received. In addition to this, partial information has been obtained of one hundred and thirty more, who have not personally answered. In many of the latter, our knowledge is limited to the fact as to whether they are in practice or not, while in others we have all but the answers to the most personal questions. This must be explained to account for the difference in the numbers of answers to the various questions.

Of 430 women, 390 are found to be engaged in active practice; 11 have never practised at all; while 29 have practised for a time

and then retired. Of the latter, 12 have ceased practice on account of marriage, 7 from ill health, 5 have engaged in other work, while the remainder give no reasons.

These women are scattered over twenty-six States of the Union, New York, Pennsylvania, and Massachusetts having the largest number.

There are, so far as we know, no women-physicians in the Southern States, with the exception of Maryland, Virginia, West Virginia, and Texas; also none in Arkansas, Kentucky, and Nevada. While Boston, New York, Philadelphia, and Chicago have each quite a large number, many of the answers have come from small villages and towns.

Seventy-five per cent. were single on beginning the study of medicine, nineteen per cent. were married, and six per cent. were widows. Their average age was twenty-seven years, and the average time of study before engaging in practice was four and one-half years.

With regard to the length of time these women have been in practice, the statistics show that —

144 have practised less than 5 years;
123 " " from 5 to 10 years;
40 " " from 10 to 15 years;
15 " " from 15 to 20 years; and
23 " " over 20 years.

Three hundred and forty-one report themselves as practising regular medicine; thirteen, homœopathy; and ten give no answer.

It was somewhat difficult to frame a question which would give an idea of the pecuniary success of women in practice. It seemed doubtful whether the majority would be willing to return their income, and, moreover, that would not always give a fair idea of the value of a practice, since an income of one thousand dollars in the country might represent more profit than three thousand dollars in a large city. It was finally decided to ask: "How long before your professional income was sufficient to support you?" It might be objected to this that different persons' ideas of what constitutes a support vary widely; yet, inasmuch as the fees of a place generally bear some relation to the living expenses there, it was thought to be a fair question.

In answer to this, 77 report that they supported themselves from the beginning, 34 in less than one year, 57 after the first year, 34

in two years, 14 in three years, and 10 in various periods of time over three years; 138 report an income still insufficient, or leave the question unanswered. But, on looking over their papers, we find that 27 of this number have been in practice less than two years, 12 have never practised at all, 22 are engaged in hospital practice where they receive no salary, 30 state that, not being dependent on their professional income, they do not estimate it separately; 11 report a sufficient income at present, but do not say when it became so; and 3 have retired from practice.

This leaves, therefore, only 11 of the 138 who can fairly be said to have practised over two years, and failed to become self-supporting.

Moreover, 32 per cent. of these women report that they have one or more persons partially or wholly dependent on them.

To the question regarding the kind of practice in which they are engaged, 269 report it to be general, although many add that gynœcological cases predominate; 45 make a specialty of Gynœcology and Obstetrics (including Surgery); 4 Ophthalmology and Otology, and 7 Mental Diseases, while 13 are engaged in hospital practice.

The next question was in regard to the health of these physicians since beginning practice. Thinking that, if the results of this question were reported in regard to the whole number of women together, it might be reasonably objected that many of them had not been practising long enough to test fairly the effect on their health, we have thought it best to divide the answers into classes, and find that, of those who have practised less than five years,— 130 in all,—

76 report their health good,
51 " " improved,
3 " " not good.

Of 115, who have practised from 5 to 10 years,—
58 report their health good,
49 " " improved,
8 " " not good.

Of 38, who have practised from 10 to 15 years,—
25 report their health good,
12 " " improved,
1 " " not good.

Of 14, whose practice has been from 15 to 20 years,—
13 report their health good,
1 " " improved.

Of 23, who have practised *over* 20 years,—
15 report their health good,
7 " " improved,
1 " " not good.

Of the 13 who report poor health, there are only 4 who ascribe their illness to the effect of practice alone, additional causes being present in all the others.

Furthermore, since it has been argued that the peculiar physiological organization of woman must unfit her to bear mental or physical strain at certain periods, a special question has been asked on this point, resulting in 34 acknowledging more or less periodical incapacity, while 273 state that their work is never interfered with from this cause. It might, perhaps, be objected that the persons themselves are not always the best judges on such a matter, and that they may be injuring themselves without realizing it; but, when we see the large proportion of women who have borne the strain of from five to thirty years' practice, not only without breaking down, but with actual improvement of their physical condition, it seems as if some unnecessary anxiety had been wasted on this point. We do not think it would be easy to find a better record of health among an equal number of women, taken at random from all over the country.

There are several points that seem worthy of comment in this connection. In the first place, the average age of the woman-physician, when beginning practice, we find to be thirty-one and a half years, at which time the period of development is over; therefore, if she start with a fair amount of health, she will be much better able to bear physical and mental fatigue than would a younger woman. Secondly, the out-of-door life which a physician leads, compensates for many disadvantages, especially among women, who habitually spend too much time in-doors. Moreover, the woman who has an absorbing interest outside of herself, is far less liable to fall a victim to the various nervous disorders which form so large a portion of the ailments of her sex, than those not so employed.

We do not wish to be understood to imply that the life of a medical practitioner is an easy one, and that any woman is strong

enough to endure it. On the contrary, we believe good health to be one of the first requisites for a man or woman about to begin the study of medicine. Where there is any decided organic disease, the cases are rare which would be justified in undertaking it; but where the impaired physical condition is the result of the unhealthy mental state that an aimless life brings, or the in-door life to which the occupations of women to a great extent condemn them, we have known it to prove of great benefit.

We have endeavored to find how far women are recognized by their professional brethren to the extent of admission to their societies. In fifteen States they report membership in the State and county societies; namely, in Maine, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, Michigan, Illinois, Iowa, Ohio, Tennessee, Minnesota, Kansas, Nebraska, and California, while seven have represented their societies at the American Medical Association.

The outlook of women who study a profession must always be somewhat different from that of men, inasmuch as marriage brings with it far more important changes in the life of the former than of the latter.

The cares of a family, added to those of a physician, might well be deemed too great a burden for one pair of shoulders. Nevertheless, a considerable number of women have ventured to combine the two. Sixty-five of our number have married since their graduation, of whom nineteen married physicians. Fourteen of them have ceased to practice either at once, or when the duties of a mother were added to those of a wife. The others have continued their work, although twenty-one report that their professional career is somewhat interfered with by domestic duties. Sixty-seven children have been born as the result of these marriages, and in all but two instances the mothers have been able to fill the function of maternity. It is not fair, however, to estimate the size of the families by the number of children here reported, inasmuch as, in a large number of cases, the married life has just begun.

It is a matter of regret that we did not ask for special information as to the health of these children, but many of the mothers have voluntarily stated that they were strong and healthy.

Beside their work in private practice, thirty-four per cent. of our list of physicians are or have been employed as attending or resident physicians in various institutions. The most distinctive work

of women in this direction has been the founding and management of hospitals and dispensaries for women and children in several of our large cities. The objects of these hospitals are threefold:

1st. To afford opportunity for the medical treatment of women and children by women physicians.

2d. To give clinical instruction to women medical students.

3d. To train nurses, under female supervision.

In accordance with these aims, the resident and attending physicians and internes have, with few exceptions, been women, the consulting staff alone including men.

The first of these hospitals was chartered in New York in 1857, under the name of "The New York Infirmary for Women and Children," with Drs. Elizabeth and Emily Blackwell and Marie E. Zakrzewska as physicians. This hospital now contains thirty beds, and its staff numbers six attending, and eight dispensary physicians. In 1859, Dr. Zakrzewska was invited by the trustees of the "New England Female Medical College" to come to Boston and establish a similar hospital in connection with that institution. This she did; but, in 1862, she severed her connection with the college and became the head physician of the present "New England Hospital for Women and Children." In 1861, a similar hospital was begun in Philadelphia, in connection with the "Woman's Medical College of Pennsylvania." Among its first physicians were the late Drs. Ann Preston and Emeline H. Cleveland. This hospital now consists of thirty-five beds, and its staff numbers five hospital, nine dispensary, and nine district physicians. In 1865, a hospital was established in Chicago, chiefly by the exertions of Dr. Mary H. Thompson. Its present staff consists of three hospital and six dispensary physicians. The above hospitals are all connected more or less intimately with the various women's medical colleges.

The New England Hospital of Boston, incorporated in 1862, is the only woman's hospital of any size not connected with a college. It consists of a general hospital of forty-six beds, and a maternity department of twelve beds. The latter was, for many years, the only lying-in hospital in Boston. The hospital staff numbers nine attending physicians and surgeons. Six internes, chosen from the women-graduates in medicine all over the country, are constantly employed there.

These hospitals receive each year from two hundred to four

hundred patients, a large proportion of them being cases of gynœcological surgery and obstetrics. Each of these hospitals has a dispensary connected with it with departments for in and out-patients. The Dispensary of the New England Hospital treats about five thousand new patients annually, and those of the New York Infirmary and Woman's Hospital of Philadelphia nearly as many. Several other hospitals and dispensaries of smaller size have been established in other cities, as San Francisco, Detroit, Jersey City and other places.

The work accomplished in these hospitals may seem very small when considered in proportion to the other hospitals of the country, but those who have followed the rise and progress of these institutions, and seen how every step has been taken in the face of bitter opposition or scarcely less discouraging indifference, can alone estimate the courage, patience and energy needed to bring them to their present condition.

Another field of work, which is just opening for women physicians, is the care of female patients in insane asylums. The need of women in such asylums has been ably advocated by some of the best physicians of both sexes. In several States, viz: Pennsylvania, Massachusetts, Iowa and Michigan, women physicians have lately received appointments in the State asylums.

It is too soon to speak of the results of their work, and, as it is our endeavor in this paper to confine ourselves to facts, we shall leave time to show the effects of this movement.

In speaking of the work of women physicians, we must not omit to say a few words concerning the so-called "missionary physicians." The Board of Foreign Missions found that the women of the East were practically debarred from the aid of a physician, since it is entirely contrary to their laws and religion for a man to enter the private apartments of a woman under any circumstances. This suggested the idea that, if women physicians could be sent to those countries, they might not only find the opportunity to alleviate much suffering, but, in so doing, gain an influence among their patients which would greatly aid toward their conversion to Christianity. The whole number of women, who have been sent out in this capacity, is about twenty. In all instances, these women have at once organized dispensaries where women and children are gratuitously treated. In a few cases, the work has increased so much that hospitals have also

been established. In every case, the success of their efforts has been marked, and not only the poor, but women of the highest classes, have eagerly sought their professional services.

One woman, who was sent to Bareilly, India, in 1871, has established a hospital in a building presented to her for this purpose by a native prince, where she treats large numbers of patients. Women of the higher classes often come there, accompanied by their retinue of servants, and remain till cured, paying liberally for their treatment. Her only assistants are native girls, whom she has herself trained. Another who was stationed at Allahabad, in 1871, not only receives patients in a similar way, but has often been called to various native states, by their rulers, to treat persons of their households. A third, after a year's work, gave up her connection with the Board and went to the native state of Hyderabad, where she was employed by the governor to open a dispensary. She treats there about six thousand patients annually and receives a large salary for her services. Still another, who was sent by the Board to Bombay in 1873, treats at her dispensary about ten thousand patients a year, with only native assistants, trained by herself. She has been urged in vain by various native rulers to take up her abode in their dominions, with the offer of large salaries.

In China the success has not been less marked. A woman physician, who went there in 1878, was sent for to treat the wife of a viceroy, after which arrangements were made by which a dispensary was established for her at government expense.

Two women have sacrificed their lives in this work, one of whom in particular fell a victim to the cholera, after having been the means of saving many lives by her personal exertions. The other, who had established a hospital for children in Calcutta, died at a health-resort in the mountains, whither she had gone for rest from her arduous work. The number of missionary physicians is on the increase, and the work seems to afford an unlimited sphere for those who are inclined in that direction.

This brief sketch of the position of women physicians, at the end of the first thirty years of their existence, can hardly fail to establish the facts that there are many women who can and will devote themselves to the profession; that the number of such women is rapidly increasing; and that the public will employ them.

It would be a mistake, however, to convey the idea that we can rest satisfied with these results. What the earnest women physicians all over the country desire is some recognition, by the public and the profession, of those who are willing to devote themselves with heart and soul to the work, by giving them the chance to share the best opportunities for gaining knowledge that the country affords.

It is very easy to say that women have their own medical schools, and need nothing more, and to ascribe any attempt to obtain entrance into our best universities to a restless ambition to be masculine. So far as our personal knowledge goes, the majority of women students would prefer not to receive all their instruction in mixed classes, but they want the best, and they know that the women's colleges, though deserving great praise for what they have done, cannot, in the nature of things, offer the advantages of institutions which have for years had the best talent of the country at their command. The number of women who study medicine will probably never be large in comparison with that of men, so that the maintenance of separate schools of equal excellence for their instruction will require more money than they are likely to receive.

The arrangement made by the regents of the university of Michigan, seems to be highly satisfactory to both professors and students, and if some similar plan could be adopted by a few of our best colleges and hospitals, it would probably meet all requirements, at least for many years.

As to the doubts which are expressed in regard to the mental fitness of women to practice medicine, all we ask is: give them as good a chance to gain knowledge as the men-students have, and then let them stand or fall by the results. If they have not, as a body, the capacity for the work, they will soon show it. That many *individuals* may enter the profession, who are not fitted to practice, can hardly be used as an argument against the study of medicine by women, without applying it equally to the other sex.

EMILY F. POPE.
EMMA L. CALL.
C. AUGUSTA POPE.

AMERICAN SOCIAL SCIENCE ASSOCIATION.

CONSTITUTION, LIST OF OFFICERS, COMMITTEES, AND MEMBERS.

1881-82.

No List of Members of the Association, as printed, can ever be quite complete, so many changes occur by death and withdrawal, the accession of new members, etc. The following list is as complete as the Secretary could make it, up to November 1, 1881; but, no doubt, the addresses of several members are wrong, and there are instances of names misprinted, etc., of which the Secretary will thank any person to notify him when the fact is observed.

The Proceedings of the Eighth Conference of Charities, at Boston, have been printed and distributed to members of the Association. Proceedings of the former Conferences, so far as attainable, for some are out of print, will be furnished to members and others desirous of obtaining them, by the Secretary of the Association, the price being one dollar for each volume, except those of 1880 and 1881, which are sold for $1.50 and $1.25 each. A list of the other publications of the Association is annexed.

Journal of Social Science. Containing the Transactions of the American Association. Nos. I.—V. 8vo, paper, each $1.50. Nos. VI., XIV., each $1.00.

CONTENTS OF NUMBER TWO.—Current Record of the Association. I. Immigration—Frederick Kapp. II. The American Census—James A. Garfield III. The Mode of Procedure in Cases of Contested Elections—Henry L. Dawes. IV. The Public Charities of the State of New York—Theodore W. Dwight. V. The Public Libraries of the United States—Ainsworth R. Spofford. VI. The Science of Transportation—Joseph D. Potts. VII. Vaccination—A Report presented by Francis Bacon, William A. Hammond, and David F. Lincoln. VIII. The Election of Presidents—Charles Francis Adams, Jr. IX. Life Insurance—Sheppard Homans. X. The Administration of Criminal Justice—George C. Barrett. XI. Health Laws and their Administration—Elisha Harris. XII. An International Code—D. D. Field. XIII. General Intelligence. XIV. Constitution. XV. List of New Members. XVI. List of Works relating to Social Science published in 1869.

CONTENTS OF NUMBER THREE.—I. Public Parks and the Enlargement of Towns—F. L. Olmsted. II. Art Education in America—C. C. Perkins. III. Civilization and Health—Francis Bacon. IV. American System of Patents—S. A. Duncan. V. Nature and Sphere of Police Power—T. D. Woolsey. VI. Legislation and Social Science—E. L. Godkin. VII. Representation of Minorities—D. D. Field. VIII. Relations of Business Men to National Legislation—H. A. Hill. IX. Houses in the Country for Working Men—G. B. Emerson. X. Minority Representation in Europe—Thomas Hare. XI. Application of Mr. Hare's system of Voting to the Nomination of Overseers of Harvard College—W. R. Ware. XII. General Intelligence. 1. Home. 2. Foreign.

NUMBER FOUR is out of print, as well as NUMBER ONE.

CONTENTS OF NUMBER FIVE.—I. Municipal Government—Dorman B. Eaton. II. Higher Education of Women—T. W. Higginson. III. Restoration of the Currency—Joseph S. Ropes. IV. Some Results of the Census—Francis A. Walker. V. Public Vaccination—F. P. Foster. VI. The International—David A. Wasson. VII. Legislation in Relation to Pharmacy—G. F. H. Markoe. VIII. General Intelligence.

CONTENTS OF NUMBER SIX.—General Meeting at New York. I. Opening Address—George William Curtis. II. The Work of Social Science in the United States—F. B. Sanborn. III. Financial Administration—G. Bradford. IV. Conference of the Boards of Public Charities. V. Pauperism in the City of New York. VI. The Farmers' Movement in the Western States—Willard C. Flagg. VII. Ocean Lanes for Steamship Navigation—Prof. B. Peirce. VIII. Rational Principles of Taxation—David A. Wells. IX. American Railroads—Gardiner G. Hubbard. X. Reformation of Prisoners—Z. R. Brockway. XI. The Deaf-Mute College at Washington—Edward M. Gallaudet. XII. The Protection of Animals—George T. Angell. XIII. American Finance—Prof. W. G. Sumner.

CONTENTS OF NUMBER SEVEN.—I. Private Property upon the Sea—Rev. Dr. Woolsey. II. Conference of Boards of Health. III. (School Hygiene)—Drs. D. F. Lincoln and A. L. Carroll. IV. Tent Hospitals—Dr. J. F. Jenkins. V. National, State, and Sectarian Universities—A. D. White and Dr. McCosh. VI. Free Lending Libraries—W. W. Greenough. VII. The Young Men's Christian Association—Cephas Brainard. VIII. Ocean Lanes. IX. Prison Reform in Europe and America—Dr. Wines and F. B. Sanborn. X. Social Science Record. XI. Conference of Boards of Charities.

CONTENTS OF NUMBER EIGHT.—I. The Production and Distribution of Wealth—David A. Wells II. The Work of Social Science—F. B. Sanborn. III. Progress in International Law—J. B. Angell. IV. The Experiment of Civil Service Reform—Dorman B. Eaton. V. The Treatment of the Guilty—W. G. Eliot. VI. Health in Schools—Drs. D. F. Lincoln, J. J. Putnam, etc. VII. Financial Policy of England and the United States. VIII. Limitations of Judicial Power—Emory Washburn. IX. Life Insurance for the Poor—Elizur Wright and Sheppard Homans. X. Legal Education—W. G. Hammond. XI. The Detroit Meeting.

CONTENTS OF NUMBER NINE.—I. Social Science in Theory and in Practice—F. B. Sanborn. II. The Silver Question—W. Stanley Jevons. III. The Silver Question—B. F. Nourse. IV. Savings Banks—John P. Townsend. V. Local Taxation—William Minot, Jr. VI. Industrial and Social Aspects of the Southern Question—W. L. Trenholm. VII. Education in the Southern States—T. M. Logan. VIII. The Navigation Laws of Great Britain and of the United States—Hamilton A. Hill. IX. The Tariff Question—Horace White. X. Custom House Forms—Henry D. Hyde. XI. State and Municipal Government—Samuel Bowles. XII. Municipal Economy—Daniel L. Harris.

CONTENTS OF NUMBER TEN.—Transactions of the Association, 1879. I. American Education, 1869–1879. Annual Address by President Gilman. II. The Method of Study in Social Science—William T. Harris. III. Report of the Department of Education—Mrs. I. T. Talbot. IV. The Voting of Women in School Elections—A. P. Peabody. V. Relations of Christianity to the Common Law—M. B. Anderson. VI. The Place of the Practical Man in American Public Affairs—Hamilton Andrews Hill. VII. Chinese Immigration—S. Wells Williams. VIII. The United States and The Declaration of Paris—Theodore S. Woolsey. IX. Recent Changes in our State Constitutions—Simeon E. Baldwin. X. The Policy of Patent Laws—Frederic H. Betts. XI. The Sewerage of the Smaller Towns—George E. Waring, Jr. XII. Industrial Arbitration and Conciliation—Joseph D. Weeks.

CONTENTS OF NUMBER ELEVEN.—Report of the Annual Meeting, 1880. List of Members. I. Southern Questions. 1. The Negro Exodus from the Gulf States—Frederick Douglass. 2. The Emigration of Colored Citizens from the Southern States—R. T. Greener. 3. Colored Schools in Virginia—Mrs. Orra Langhorne. II. Recent Changes in the West—Robert P. Porter. III. A Report on Protection from Casualties in the use of Machinery—Prof. William Watson. IV. International Coinage—Robert Noxon Toppan. V. Social Economy Papers. 1. Report of the Department of Social Economy—F. B. Sanborn. 2. The Care of Poor and Vicious Children—Charles L. Brace. 3. Social Economy in Illinois—Mrs. Harbert. 4. Co-operative Distribution—William A. Hovey. 5. Co-operation in England—James Samuelson. Saratoga Papers of 1877. 1. Extradition—Sheldon Amos. 2. Graduate Courses at Law Schools—Prof. S. E. Baldwin.

CONTENTS OF NUMBER TWELVE. Professor Peirce's Cincinnati Address: The National Importance of Social Science in the United States. President Gilman's Opening Address. Report of the General Secretary, by F. B. Sanborn. Report of the Treasurer and Publication Committee: Prof. Wayland and F. B. Sanborn. Papers of the Education Department; I. Report on Kindergarten Schools—Prof. Harris, Mrs. Talbot. II. The Relation of the Public Library to the Public Schools—Samuel S. Green. III. Educational Progress in England—Miss Edith Simcox. IV. Home Life in Some of its Relations to Schools—Miss Mary W. Hinman. V. The American Newspaper and American Education—Dr. J. M. Gregory. Libel and its Legal Remedy—E. L. Godkin. Papers of the Social Economy Department; I. Associated Charities. A. The Principle and Advantage of Association in Charities—Rev. D. O. Kellogg. B. General and Special Methods of Operation—Rev. O. C. McCulloch. C. The need and Work of Volunteer Visitors—R. T. Paine, Jr. D. The Care and Saving of Neglected Children—Miss Anna Hallowell. II. The Principle of Volunteer Service—Mrs. Florence Bayard Lockwood. III. The Recreations of the People—George B. Bartlett. IV. The Justifying Value of a Public Park—F. L. Olmsted. Constitution, Officers and Members of the Association.

CONTENTS OF NUMBER THIRTEEN. Order of Business at Saratoga in 1881. Papers of the Jurisprudence Department: I. Pensions in a Republic—Frederick J. Kingsbury. II. Modern Legislation Touching Marital Property Rights—Henry Hitchcock, LL.D. III. The German Socialist Law of October 21, 1878—Henry W. Farnam. IV. The Study of Anatomy, Historically and Legally Considered—Edward Mussey Hartwell, M.A. Papers of the Health Department: I. The Treatment of Insanity in its Economic Aspect—Walter Channing, M.D. II. Adulterations in Food—Prof. S. W. Johnson. Debate on Adulterations. Remarks of George T. Angell. General Papers: I. Christianity and the Relations of Nations—Charles L. Brace. II. Indeterminate Sentences and their Results in New York—Z. R. Brockway. III. Changes in American Society—Julia Ward Howe. Appendix; Infant Development.

☞ *See Page xvi.*

THE AMERICAN SOCIAL SCIENCE ASSOCIATION

Was organized in October, 1865, at a public meeting in Boston, at which the late Governor ANDREW presided. Its Presidents have been Prof W. B. ROGERS, SAMUEL ELIOT, GEORGE WILLIAM CURTIS, President WOOLSEY, DAVID A. WELLS, President GILMAN, of Baltimore, and Professor WAYLAND, of Yale College, who now fills the office; its Secretaries, SAMUEL ELIOT, HENRY VILLARD, and F. B. SANBORN It now has members in nearly all sections of the United States, numbering in all between 300 and 400.

Its object, stated briefly, is to encourage the study of the various relations, social and political, of man in modern life; to facilitate personal intercourse and interchange of ideas between individuals interested in promoting educational, financial, sanitary, charitable, and other social reforms and progress; and promptly to make known to the public all theoretical or practical results which may flow from such studies or investigations. To some extent these ends have been successfully attained, by the organization and growth of the Association, and the periodical public meetings of the members, with the accompanying reading of papers and discussions.

Our income has hitherto been sufficient to meet our expenses; but it has been necessary to rely upon sources which may be called extraordinary. The Association has no funded property; its *regular* income is composed mainly of annual payments from members, which amount to less than $1,600 *per annum*. The cost of publishing three numbers of the Journal (about 600 pages, 8vo.) is $1,200; the salary of Secretary, expense of annual meetings and incidentals, $1,200 more, in round numbers, or a total of $2,400. It is thought that the time is come when we may confidently appeal to the general interest felt in Social Science throughout the country, for the purpose of establishing our finances upon a solid basis, by enlarging our list of members to 500 or 1,000. It is believed that an institution supported in this way, and relying on a wide-spread popular feeling of interest, will not only stand firmer, but will accomplish its educational object far better than if (as hitherto) supported by a few subscribers. In order to avoid misapprehension and prejudice, it may be stated that while the Association welcomes all new ideas, and encourages the greatest freedom of intelligent expression and debate, it does not hold itself responsible for the opinions of its individual members.

Membership is obtained by the annual payment of five dollars. This confers the right to take part in business meetings of the Association, and to vote in election of officers, and entitles one to receive its publications free of expense. The publications consist chiefly of the "Journal of Social Science," which includes the results of the work of the Association, more especially the proceedings and papers of the General Meetings.

It would seem that the desired increase in membership ought to be easily obtained; and the Council believe that it can be, if those who read this will become members, and aid in interesting others.

Publications can be obtained and information had by addressing F. B. SANBORN, Concord, Mass., or the Publishers for the Association, A. WILLIAMS & Co., Boston, and G P. PUTNAM'S SONS, New York.

CONSTITUTION.

[It will be seen that under the Constitution, as here printed, a new organization of the officers of the Association has been made, — what was formerly called the Executive Committee being now the Council.]

The Constitution, as amended January 14, 1880, is as follows:—

I. This Society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.

II. Its objects shall be classified in five departments: the first, of Education; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III It shall be administered by a President, as many honorary Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective Departments; and such Local Committees as may be established by the Council at different points, to serve as branch associations. The Council shall consist of the President, Treasurer, and Secretary, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-Laws. The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence, a Director, shall be Chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex-officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex-officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Any person may become a member by paying five dollars, and may continue a member by paying annually such further sum as may be fixed at the Annual Meeting, not exceeding ten dollars. On payment of one hundred dollars, any person may become a life-member, exempt from assessments. Honorary and corresponding members may be elected, and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendments.

OFFICERS OF THE ASSOCIATION.

1881–1882.

President, FRANCIS WAYLAND, New Haven, Ct.

First Vice-President, DANIEL C. GILMAN, Baltimore, Md.

Vice-Presidents.

MARTIN B. ANDERSON, Rochester, N. Y.
THOMAS C. AMORY, Boston.
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NATHAN ALLEN, Lowell.
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General Secretary, F. B. SANBORN, Concord, Mass.

Treasurer, F. J. KINGSBURY, Waterbury, Ct.

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HORACE WHITE, "
ANSON P. STOKES, "
JONAS M. LIBBEY, "
JOHN EATON, Washington, D. C.
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Department Officers.

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II. *Health.*—WALTER CHANNING, M. D., Boston, *Chairman;* EMILY F. POPE, M. D., Boston, *Secretary.*

III. *Finance.*—DAVID A. WELLS, Norwich, Ct., *Chairman;* HAMILTON A. HILL, Boston, *Secretary.*

IV. *Social Economy.*—Prof. W. B. ROGERS, Boston, *Chairman;* Mrs. HENRY WHITMAN, Boston, *Secretary.*

V. *Jurisprudence.*—Prof. FRANCIS WAYLAND, New Haven, *Chairman;* Prof. THEODORE S. WOOLSEY, New Haven, *Secretary.*

Executive Committee.

Prof. FRANCIS WAYLAND, *President;* F. B. SANBORN, *General Secretary;* F. J. KINGSBURY, *Treasurer;* Mrs. EMILY TALBOT, *Education Secretary;* Dr. E. F. POPE, *Health Secretary;* Prof. THEODORE S. WOOLSEY, *Jurisprudence Secretary;* HAMILTON A. HILL, *Finance Secretary;* Mrs. H. WHITMAN, *Social Economy Secretary.*

The special subjects of inquiry in each of the five Departments of the Association come before the Department Committees, a list of which follows on the next page.

DEPARTMENT COMMITTEES.

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MEMBERS OF THE ASSOCIATION.

[All officers are *ex-officio* members of the Association; but persons serving on Department Committees may or may not be members of the Association. In recent lists, these members have been classified by States, but, for convenience, in the present revised list the annual members are given alphabetically, without reference to States; then the life members follow, classified by States, and finally the honorary and corresponding members. The only distinction between honorary and corresponding members is that the former reside in the United States, the latter in foreign countries. It is a rule of the Association to drop from the list of annual members those who have not paid their assessment for two years,—but members so dropped can be restored to the list by paying their arrears. If any former members do not find their names on the list as it now stands, it will generally be for the reason just mentioned.]

ANNUAL MEMBERS

ALPHABETICALLY ARRANGED.

Adams, W. Irving, New York City, 419 Broome Street.
Adler, Prof. Felix, New York City, 604 Lexington Avenue.
Agnew, Dr. C. R., New York City, 206 Madison Avenue.
Aikin, Rev. Charles A., Princeton, N. J.
Aldrich, P. E., Worcester, Mass.
Allen, Dr. Nathan, Lowell, Mass.
Allen, Prof. W. F., Madison, Wis.
Amory, T. C., Boston, 19 Commonwealth Avenue.
Amory, Wm., Boston, 60 State Street.
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Anthony, Henry B., Providence, R. I., 9 Benefit Street.
Ashburner, William, San Francisco, Cal., 1014 Pine Street.
Atkinson, Edward, Boston.
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Baker, Henry B., Lansing, Mich., State Board of Health.
Baldwin, Prof. S. E., New Haven, Conn.
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Bradford, Charles F., Boston, Mass., 2438 Washington Street.
Braman, J. C., Boston, Mass., 50 State Street.
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Brooks, Phillips, Boston, Clarendon Street.
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Eliot, T. B., Portland, Oregon.
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Foote, F. W., New York City, Wall Street.
Foote, Miss Mary B., Cambridge, Mass., 352 Howard Street.
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Frothingham, Rev. O. B., Boston.
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Gilman, Edward W., New York City (Bible House).
Goddard, Miss Matilda, Boston, 2 Florence Street.
Godkin E. L., New York City.
Godwin, Parke, Roslyn, Queen's Co., N. Y.
Goshorn, Gen. A. T., Cincinnati, O.
Green, Samuel S., Worcester, Mass.
Green, Jacob L., Hartford, Conn.
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Gregory, J. M., Chicago, Ill.
Grew, Henry S., Boston, 89 Beacon Street.
Groesbeck, W. S., Cincinnati, O.
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Hallowell, Miss Anna, Philadelphia, Pa.

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Hartwell, Edw. M., Baltimore, Md.
Higginson, T. W., Cambridge, Mass.
Higginson, Waldo, Boston, 70 Devonshire Street.
Hildreth, J. L., Cambridge, Mass.
Hill, Hamilton A., Boston, 31 Milk Street.
Hinman, Miss Mary W., Havana, N. Y.
Hitchcock, Henry, St. Louis, 303 Chamber of Commerce.
Hoadley, Geo., Cincinnati, O., 3, 4, and 5 Masonic Building.
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Holt, Henry, New York City, 14 East 54th Street.
Homer, Peter T., Boston, 27 Mt. Vernon Street.
Homes, H. A., Albany, N. Y. (State Library).
Hooker, Mrs. I. B., Hartford, Conn.
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Horsford, Prof. E. N., Cambridge, Mass.
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Hotchkiss, Justus S., New Haven, Conn.
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Hubbard, Dr. S. G., New Haven, Conn.
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Hunt, T. Sterry, Montreal, Canada.
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Hyde, C. M., Honolulu, Sandwich Islands.
Ingaldsbe, Milo, So. Hartford, Washington Co., N. Y.
Jacobi, A., New York City, 110 West 34th Street.
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Jewell, Mrs. Marshall, Hartford, Conn.
Jewett, Josiah, Buffalo, N. Y.
Johnson, Emmons, Waterloo, Iowa.
Jones, Jesse H., Schroon Lake, N. Y.
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Lee, Henry, Boston, 40 State Street.
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Leonard, N. A., Springfield, Mass.
Leonard, Mrs. C. T., Springfield, Mass.
Livermore, Rev. A. A., Meadville, Pa.
Lord, H. W., Detroit, Mich.
Loring, C. W., Boston, 17 Pemberton Square.
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Lowell, Mrs. C. R., New York City, 120 East 30th Street.
Lyman, Arthur T., Boston, 17 Kingston Street.
Lyman, Theodore, 191 Commonwealth Avenue.

Lynde, Mrs. Wm. P., Milwaukee, Wis.
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No. XIV of the JOURNAL OF SOCIAL SCIENCE contains one-half of the Addresses, Papers and Reports read at the Saratoga Meeting of 1881. Its contents are:

1. The General Meeting of 1881 — Death of President Garfield.
2. Opening Address of Professor Wayland, President of the Association.
3. The Three-fold Aspect of Social Science — Report of the General Secretary, F. B. Sanborn.
4. Civil Service Reform, an Address by George W. Curtis.
5. The American Newspaper, by Charles Dudley Warner.
6. Prohibitory Legislation, by P. Emory Aldrich.
7. Province of Legislation in the Suppression of Intemperance, by F. W. Bird.
8. License and Prohibition, by Rev. Leonard W. Bacon.
9. The Moral Statistics of the United States, by Dr. Woolsey.
10. Divorce Laws, by Prof. W. C. Robinson.
11. Lax Divorce Legislation, by Rev. S. W. Dike.
12. Address on Health and Insanity, by Walter Channing, M.D.
13. Women Practising Medicine, by Dr. E. F. Pope.
14. Constitution, List of Members, Officers and Committees of the Association.

For information concerning the Association or its Publications, address:

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CONTAINING THE

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CONSTITUTION OF THE AMERICAN SOCIAL SCIENCE ASSOCIATION.

I. This Society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.

II. Its objects shall be classified in five departments; the first, of Education; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III. It shall be administered by a President, as many honorary Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective Departments; and such Local Committees as may be established by the Council at different points to serve as branch associations. The Council shall consist of the President, Treasurer, and Secretary, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-Laws. The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors, shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence, a Director, shall be Chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex-officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex-officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Any person may become a member by paying five dollars, and may continue a member by paying annually such further sum as may be fixed at the Annual Meeting, not exceeding ten dollars. On payment of one hundred dollars, any person may become a life-member, exempt from assessments. Honorary and corresponding members may be elected, and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendments.

Publications can be obtained and information had by addressing F. B. SANBORN, Concord, Mass., or the Publishers for the Association, A. WILLIAMS & Co., Boston, and G. P. PUTNAM'S SONS, New York.

PREFACE.

The Papers included in this number of the *Journal of Social Science* taken together with those which appeared in the *Journal* No. XIV, make up all the Saratoga Papers of 1881 which have been received from the authors in condition for printing. As some misapprehension may exist in regard to the publication of Papers by the Association, it may here be said that all Papers engaged for the General Meeting of the American Social Science Association are so engaged with the understanding that they may be printed in the *Journal of Social Science* if the Council so decide; if, therefore, the writers choose to publish their papers elsewhere, (to which the Council offers no objection) it must be with the stipulation that these papers may also be published in the *Journal*, at the option of the Council as to time of publication.

The absence of some of the Saratoga Papers of 1881 from this Number reduces its size; but since the *Journal* No. XIV. contains 215 pages, this Number 167 pages, and the Proceedings of the Boston Conference of Charities 376 pages,—making an aggregate of nearly 760 pages published and distributed to members of the Association for the year 1881, the Council believe that their implied promise to the members in respect to publications has been fully kept. If any members have failed to receive these three publications through change of address, temporary absence, or for any cause, the Secretary will supply the omission upon due notice. Such changes in the list of members as have been found necessary since November, 1881, will appear on page viii. of this Number. It will be observed by reference to the list of Officers printed on the cover of this Number, that Dr. Eliza M. Mosher, the Superintendent of the Reformatory Prison for Women at Sherborn, Mass., has taken the place of Dr. E. F. Pope, as Secretary of the Health Department.

THE GENERAL MEETING OF 1882.

This will take place as usual at Saratoga, N. Y., early in September, 1882, opening in Putnam Hall, on Monday Evening, September 4, with an address by President WAYLAND, and closing on Friday, September 8. The sessions of the Education Department will occur on Tuesday, those of the Health Department on Wednesday, of the Jurisprudence Department on Thursday, and of the Departments of Finance and Social Economy on Friday. The headquarters of the Association will be at the *United States Hotel*, where members and guests of the Association will be received at reduced rates.

The Education Department will continue its investigations of *Infant Development*, and in addition to its other topics will present for discussion the subject of *Industrial Training among the Dependent Classes;* the Health Department will continue the consideration of Insanity, and the Social Economy Department will present a series of Reports and Papers on the *Factory as an Element in Civilization*, by CARROLL D. WRIGHT, Esq., of Boston, and other competent writers in other parts of the United States. The Papers of the General Session, and of each Department in detail, will be announced by circulars in April or May next.

The Ninth Annual Conference of Charities will meet at Madison, Wisconsin, in July, 1882, and will continue in session four days. The precise date and the order of business in this Conference will be announced during the coming Spring. Members of the Association who desire to attend this Conference will be registered as delegates and entitled to take part in its debates.

The following names are to be added to the list of members printed in No. XIV, and the addresses of other members should be changed according to the list A. which follows:

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Sullivan, Richard, " 79 State Street.
Wing, Dr. C. E., " 149 Boylston Street.
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Young, Edward, J. (a Life Member), should be addressed at New York, not Washington, D. C.
Miles, Washburn, Boston, is deceased.

PAPERS OF THE DEPARTMENT OF EDUCATION.

I. INFANT DEVELOPMENT.

The most interesting topic considered by the Department of Education at the Saratoga meeting of 1881, was Infant Development, which will, therefore, be first presented in the *Journal*, after Dr. Harris's opening address.

THE EDUCATION OF THE FAMILY, AND THE EDUCATION OF THE SCHOOL.

AN ADDRESS BY W. T. HARRIS, CHAIRMAN OF THE DEPARTMENT OF EDUCATION.

The Department of Education, in the Social Science Association, has to consider education in general, and not to limit its view to education in the school alone. It is an error frequently made, to demand of the school all kinds of education, — education for trades and business, education in religion, education in politics and statesmanship, education in habits which the nurture of the family should supply.

Education, in the sense that social science uses the term, includes the whole life of man, in so far as the different institutions of human life react upon the individual and educate him. These institutions of civilization are the family, the social community, the State, the church. Each one of these gives a special kind of education to man which cannot be given by any of the others; all education seeks to make the mere individual the possessor of the fruits of the labors and experience of the human race. The church is the highest educational institution, because it reveals the highest principle to man, — that of the creator of the world. In revealing this principle, it reveals the origin and destiny of the world, of nature, and of the world of man. If our religion were Buddhism or Brahminism, for instance, instead of Christianity, we should believe in a God without any form whatever, not even the form of

consciousness or personality. A world could not be a revelation of such a formless God. The human mind could not be in the image of a formless God. If God is not personal, an infinite reason, an absolute form, then man cannot be immortal, but must be destroyed, and lost when he returns to the first principle. Under such an education as a religion of Pantheism teaches, there can be only despotism in the State, slavery in the social community, and patriarchal rule in the family. But with the Christian ideal of a divine-human God there is all hope for the individual man. Christian civilization progresses toward the preservation and education of each individual. Each human being is an immortal soul infinitely precious to God, and institutions shall be established to reach out and bring within the influence of civilization all and each.

Next after the church, the education of the State is all-important. The influence of the form of government, its laws, and the efficiency of their execution, have a most powerful effect in forming the character of each citizen. What can school education do toward making a man of the citizen who is born under the blight of absolute despotism? The education of the State would dwarf such an individual more than the school could cause him to grow. But under a free government, where each citizen is permitted to assist in making the laws, this education is very powerful toward building up self-respect and strong individuality. The school is not chargeable with the corruption in politics, where the political machinery is so loose that it encourages demagoguery by permitting partisan success to follow as a result of bribery and fraud. Such a condition of things will corrupt the best young men who graduate from the school; the school is helpless against the temptation which is offered at the hand of the State.

Next in importance to the education of the State is that of the social community, or the business vocation of the individual. The business relation of man to his fellowmen continually educates the individual, and humanizes him or dehumanizes him, according as it is a rational employment or a brutish one.

The education of the family is of exceeding great importance. It furnishes the human being with his bundle of habits, his forms of behavior toward his superiors and equals; his habits of personal cleanliness, of proper dress, of proper eating and drinking, and, in short, of the general conduct of life. It gives the child the knowledge of his native tongue, ideas of right and wrong. All

other institutions presuppose in the child that he has learned these great fundamental lessons from family nurture. If he has been so unfortunate as to have missed the priceless blessings of family nurture, the other institutions can make very little of him. The State will be unable to permit him to exercise his liberty, because he lacks the habits which make him a safe person; he has not put on the forms which are essential to the individual for life in a civilized community. The State confines him in a jail, therefore, because his period of nurture has been an education into hostility to social forms.

The social community, with its industrial vocations, cannot receive the child who lacks family nurture; for he lacks the sense of social propriety, has no respect for the rights of property, is not honest nor truthful, and has no instinct for industry. The beggar is the symbol of the destruction of the social community. Even the school cannot compensate for the lack of family nurture. It cannot deal with the child who does not know language, nor can it take time to teach him all the personal habits he should know.

The growth of a Christian civilization for two thousand years, is marked all the way along by an increase in the power to reach and elevate the mere individual into the full enjoyment of the products of the labor and of the results of the experience of mankind. It enables the individual to participate through trade and commerce in the productions of every clime, and to share likewise in the wisdom collected by all mankind in all times and places. This principle has taken care of the well-being of the individual in the church, the State, the social community, the school.

The humblest individual is allowed, nay, encouraged, to participate in the spiritual education of the church; the State has become democratic, and admits him to the privileges of self-government; the social community has emancipated him from serfdom, and permitted him to choose his vocation and thrive by it; the school has come to his very door, and offered to every child its initiation into the wisdom of the race. But this Christian principle has not done so much for the education in the family. It has not equalized conditions in the family to the extent that it has equalized conditions in the school, the social community, the State, and the church. In the family, poverty and wretchedness are allowed to tell on the nurture of the child, and sow in him evil seeds which will grow through all after life, in spite of whatever the other

institutions may do for him. The criminal parent may bring up his offspring to vice. The ignorant parent may bring up his children to manifold bad habits of person and conduct toward others, which will prove embarrassments in after-life.

It is now the most beneficent effort in society that seeks to remedy the condition of the poor and ignorant, without depriving him of personal liberty. Social science teaches that the interest of the high and that of the low in society are one interest. No village can be healthy with a pestilential marsh adjoining it. No family, however elevated by rank or wealth, can shut up itself within its palaces so securely that an ignorant and degraded population surrounding it will not create for it a pestilential atmosphere. The piece of carrion corrupts the air far and wide. Life is perpetual participation in the totality of one's conditions. It is a continual readjustment to one's environment. The interest of each is accordingly the interest of all. If we wish to attain well-being ourselves, we must see to the well-being of our neighbors.

Social science is gradually concentrating its attention on this most important matter of family nurture. The problem is, how to assist the family without destroying its sacred privileges of privacy and self-management; how to interfere without undermining individual freedom; how to increase self-help instead of diminishing it. The first successful move in this direction is the study of the conditions of hygiene, and the provision for cleanliness, abundant pure air and pure water in the community. This is attended to by the department of health in our cities, — a recent institution, but one securing blessings to the family.

Efforts are now being made to improve the homes of the poor, to secure cleanliness, good ventilation, separate apartments for the members of the family, sufficient playground for children. These are great beginnings, but they are only beginnings, and are indirect contributions to the education of the family. The noble woman who, as Secretary of this Department of Education, has inaugurated a system of inquiry into infant growth and development (Mrs. Emily Talbot, of Boston,) has undertaken an enterprise which promises very great effects in the direct promotion of the education of the family. She has devised a plan by which to interest the mother in her child's growth, and which will induce her to watch and record the steps of development in the unfolding of the faculties of the soul.

It does not so much matter what the statistics will show, as it does matter that the mother shall learn to study the growth of her child, and learn what constitutes a stage of progress, and how to discover and remove obstacles to this growth, as well as to afford judicious aid to the child's efforts at mastering the use of his faculties. One intelligent woman who is interested in this subject will kindle an interest which will spread throughout an entire town. The wisdom gained through these observations will extend gradually to all families, and will elevate the character of infant education incalculably.

When the mother becomes observant of the actions of the child as a matter of education, and when there comes to be a stock of generalized experiences on this subject, how much will be done toward correcting evil tendencies upon their first manifestation! It is a trite remark, that the shaping of a tree is an easy affair if undertaken while it is a sapling, but impossible after the tree has attained its growth. The education that goes on within the family is the object which now calls with most importunity on us for our attention as students of social science.

REPORT OF THE SECRETARY OF THE DEPARTMENT.

That portion of Mrs. Talbot's Report having reference to the subject of Infant Development was as follows:

The importance of making some systematic effort to record the development of infant life has occupied the thoughts of many people in various countries for a long period, and observations of isolated cases have been made, such as those by Mr. Alcott, on a group of children fifty years ago, in Pennsylvania; that by Taine, on the "Development of Language in a Young Child;" that by Charles Darwin, on the "Expression of the Emotions," and by Professor Preyer, on "Psychogenesis." In a more modest way, and from the impulse of strong parental feeling and curiosity, rather than from any deliberate intention of making a scientific investigation, mothers here and there, in this and other countries have kept a diary of the physical and mental development of their children. It was suggested at the last General Meeting of this Association that in this field was a work which ought to be seriously undertaken, and that this Department should begin the difficult

task. The value of the suggestion was confirmed by discussion; advice was sought from men of science and psychologists, gentlemen eminent in their specialties; correspondence was opened with distinguished Europeans, and one result may be seen in a simple and concise register which, in the form of circulars and by reprints in many different newspapers in this country and in England, has reached tens of thousands of readers, and brought to this Department a wide and interesting correspondence. It is too soon to announce results; too soon to formulate any theory of the physical and mental development of children, but we are already in possession of interesting facts. We have hundreds of mothers engaged; many of whom have been trained in our universities and colleges to make investigations with accuracy, and to weigh evidence with candor. With patience and perseverance we hope that this Department may soon make such progress in the collection of facts as to justify the attempt, that in the course of the next decade a continued series of observations, in large numbers, may reveal order in the variations of phenomena, and that some portion of the secret of the mental and physical development of infants may be discovered. The interesting communications from Mr. Darwin and Mr. Alcott herewith submitted, will illustrate what the Committee have aimed to do, which will also appear in detail from the Register itself appended to this report:

LETTER OF MR. DARWIN.

DOWN, BECKENHAM, KENT,
RAILWAY STATION, ORPINGTON, S. E. R.,
July 19, 1881.

Dear Madam:—In response to your wish, I have much pleasure in expressing the interest which I feel in your proposed investigation on the mental and bodily development of infants. Very little is at present accurately known on this subject, and I believe that isolated observations will add but little to our knowledge; whereas tabulated results from a very large number of observations, systematically made, would probably throw much light on the sequence and period of development of the several faculties.

This knowledge would probably give a foundation for some improvement in our education of young children, and would show us whether the same system ought to be followed in all cases.

I will venture to specify a few points of enquiry which, as it seems to me, possess some scientific interest. For instance, does the education of the parents influence the mental powers of their children at any age, either at a very early or somewhat more advanced stage? This could, perhaps, be learned by schoolmasters or mistresses, if a large number of children were first classed according to age and their mental attainments, and afterward in accordance with the education of their parents, as far as this could be discovered.

As observation is one of the earliest faculties developed in young children, and as this power would probably be exercised in an equal degree by the children of educated and uneducated persons, it seems not impossible that any transmitted effect from education could be displayed only at a somewhat advanced age. It would be desirable to test statistically in a similar manner the truth of the often-repeated statement that colored children at first learn as quickly as white children, but that they afterwards fall off in progress. If it could be proved that education acts not only on the individual, but by transmission on the race, this would be a great encouragement to all working on this all-important subject.

It is well known that children sometimes exhibit at a very early age strong special tastes, for which no cause can be assigned, although occasionally they may be accounted for by reversion to the taste or occupation of some progenitor; and it would be interesting to learn how far such early tastes are persistent and influence the future career of the individual. In some instances such tastes die away without apparently leaving any after effect; but it would be desirable to know how far this is commonly the case, as we should then know whether it were important to direct, as far as this is possible, the early tastes of our children. It may be more beneficial that a child should follow energetically some pursuit, of however trifling a nature, and thus acquire perseverance, than that he should be turned from it, because of no future advantage to him. I will mention one other small point of inquiry in relation to very young children, which may possibly prove important with respect to the origin of language; but it could be investigated only by persons possessing an accurate musical ear. Children, even before they can articulate, express some of their feelings and desires by noises uttered in different notes. For instance, they make an interrogative noise, and others of assent and dissent in

different tones; and it would, I think, be worth while to ascertain whether there is any uniformity in different children in the pitch of their voices under various frames of mind.

I fear that this letter can be of no use to you, but it will serve to show my sympathy and good wishes in your researches.

I beg leave to remain, dear madam, yours faithfully,

CHARLES DARWIN.

To MRS. EMILY TALBOT.

MR. ALCOTT'S LETTER.

CONCORD, Massachusetts, August 31, 1881.

Professor W. T. Harris, Orchard House, Concord:

Dear Sir: You ask me to give you some extracts from my notes on Infancy, taken during the earliest years of my children. The following are now submitted to your perusal. In copying them from my manuscripts I beg you will remember that (while they may gain in scientific clearness) they may lose some of the attractiveness you found in them, when read in connection with the reflections and inferences made at the time of writing. The psychology must remain for the present untouched, but, in copying for your use, I allowed myself to improve the phraseology, making an occasional change for the sake of greater clearness. I confine myself to notes taken during the first three months of my eldest child's existence.

NOTES FROM THE DIARY.

March 16, 1831.—During the first days after birth she slept most of the time. As she gradually awoke and was exposed to the light, she opened her eyes as if intent on adjusting these for the purpose of seeing. Luminous objects particularly attracted her notice. While viewing these her hands moved instinctively, her arms were extended and drawn toward the mouth, which also appeared to be sensitive to the stimulus by frequent movements of the lips and tongue.

Tenth day after birth.—Her features are daily assuming a more sensitive and mobile expressiveness. To-day her attention was arrested by the contrasted colors of her mother's dress, and her attention was accompanied with a smile. She sleeps less, and is more observant (if I may say so) when awake.

Fifteenth day.—I notice an increased power of the sense of sight. A watch was held before her till she caught the sight of it, and followed its motion with her eyes while moved in various directions.

Twentieth day.—Her progress can be seen and marked daily, yet almost imperceptibly. Her existence is pleasurable, if the absence of crying, and her quiet moods, are trustworthy indications. If any sense brings the greater delight, it appears to be the sight; particularly when bright objects are placed at some distance they attract her notice. The morning hour, or the times of waking from her slumbers during the day, bring a freshness of perception.

Twenty-fifth day.—Her hands, when she is awake, are kept in constant motion, and these motions are becoming daily more energetic and direct, as being brought under the control of the will.

Thirtieth day.—When addressed, she turns towards the person speaking, as if eager to catch the tone of voice and distinguish the individuals; and the periods of attention are more prolonged and frequent. I am unable to discover that she distinguishes particulars from generals, as yet; or that recollection has dawned upon her, by which to discriminate one object from another. I imagine this belongs to a later stage of growth. Her progress has been chiefly indicated by longer-sustained efforts of attention to sounds, to form, and to motions, of which she appears to be already vaguely cognizant. Placed before a mirror to-day, she seemed for an instant to have caught the reflected image of herself and was lost in wonder at the vision, while this soon faded and itself became lost in the surrounding objects of the nursery. So the poet Shelley says:

> The babe
> In the dim nearness of its being feels
> The appulses of these sublunary things,
> And all is wonder to the unpracticed sense.

Fortieth day.—Since the last record her progress has been marked and significant; she listens to voices for some instants, and is attracted by the soft and suppressed tones; violent notes displease her. Her hours of wakefulness become longer daily, and she fixes her attention for longer periods. She takes much satisfaction in looking from the window at objects and movements outside. She has not yet been taken out of doors.

Sixtieth day.—A vase of flowers standing upon the mantelpiece attracted her notice, as she lay on her mother's lap, and she showed her pleasure at the sight by a smile. Her sleep seems mostly undisturbed and dreamless. Careful attention is paid to her dress, a disregard of this and of air and bathing, under a nurse, being avoided by the care which her mother gives.

Sixty-ninth day.—Lying in her mother s lap to-day, she caught a glimpse of her mother's finger ring, set with amethyst, at which her pleasure was great, keeping her attention on it for several minutes.

Seventy-seventh day.—While lying on the sofa she observed the varied colors of its cover; the color of her dress also, which she attempted to seize and detain in her hands. She is now almost able to hold her head erect without other support. Six days ago, the emotion of terror was excited on beholding a distorted face (May 24), and manifested by loud outcries; she seeking protection from the face in her mother's arms. It was long before she was restored to her accustomed tranquility—the vision perhaps reappeared in memory, haunted her fancy and brought tears to her eyes.

Seventy-eighth day.—On being carried into the yard she seemed lost in wonder at the varied pleasure. The open mouth, hands motionless, eyes expanded, betrayed the new sensations. She has now obtained sufficient command over her hands to grasp objects presented and hold them at will. This affords her an apparent satisfaction.

In closing, I transcribe a single reflection from the notes:

How wonderful is the progress of infancy; how involved in mystery! Repeated and successive acts of the senses precede the emergence of the indwelling mind into the light; and all emotions of the mind are unlike the movements we note in matter. We cannot affirm of this, it is, as we hesitate not to affirm of that. Now this addition is to be made to it, and now that: now it is about exhibiting such and such specific modifications—new elements are being intermingled; now observe how it behaves! But while we thus note the mind's mysterious operations as these move ceaselessly and noiselessly on, behold! ere we are aware, it has assumed new forms, unexpected changes occur, progress has been made, and the mind is.

A. Bronson Alcott.

In the absence of Mrs. Talbot, Mr. Sanborn read at the Saratoga Meeting of 1881, the cases reported by Mrs. Talbot from her correspondence with fathers and mothers, previous to August last. Several of these cases, as presented, with remarks by Mrs. Talbot, are given below, and following them will be found the essays of M. Taine, Mr. Darwin and Mr. F. H. Champneys, who have made careful observations in France and England. Mrs. Talbot's cases, with one exception, are from the United States,—the exception being the child of a Dutch family at Delft.

CASE A.

In this case, the following observations and suggestions are of interest:

The father of these children is a teacher. Both parents were born in New England, but at present reside in Virginia. One of the children was born in North Carolina, the other in Virginia. The interest of this observation seems to have centered upon the comparative development of the two children at the same age. The weight of No. 1 at birth was seven pounds; of No. 2, eight and a quarter. At the age of six months, the weight of each child was the same. No. 1 was nursed till he was sixteen months old, and liked fresh figs especially. No. 1 smiled when one day old. No. 2, when two days old. No. 1 sat alone on the floor when five months old. No. 2 is still too young for a comparison to be made on this point. No. 1 says "Titten" (Kitten) at 14 months. No. 2 appeared sensible to sound three hours after birth, held up his head and followed a light with his eyes at three weeks, noticed its hand at five weeks, and held a plaything at six weeks.

The mother writes to Mrs. Talbot, as follows:

ALEXANDRIA, VA., July 11, 1881.

Dear Madam:— You asked for suggestions, one or two of which I now make:

a. It seems to me that a question or two in regard to the character of food, frequency of feeding, etc., might be valuable in this connection, as observation teaches me that the mental development is largely influenced by these. *b.* My own children, brought up "by rule," and neither they nor their parents using any form of stimulating food, do not develop as early as their cousins, not under the same treatment, but are both of them exceedingly rugged.

Where in the series, whether first, second, or only child, is another determinative influence. My second child gives promise of excelling his sister because of her attention, example, etc.

[I make a very incomplete account of this baby of three months.]

c. The question as to the earliest exhibition of consciousness, seems to me a little ambiguous. Conscious of hunger, of the difference between arms and the bed, certainly,—yet I doubt that being the meaning of the question.

My first child, at five months, moving her finger over a plaything, heard the scratching sound thereby occasioned, stopped and listened, repeating till she had evidently clearly established the relation between the motion and the sound. This I have been accustomed to consider her first intelligent act, yet she had long before learned to distinguish between her mother and other attendants.

Medical works give six to ten hours as the earliest time at which hearing is possible, but my boy, born at 1.30, certainly heard, and nervously started at the sound of the cock crowing at 4.30.

This mother has raised questions of great importance, which may well occupy the attention of our observers for a long period. The statement (a) that mental development may be influenced by the character of the food given, is a broad one, and will admit of experiment. The recorded experience of different parents on this subject of when and how to feed a young child, would be of great service. In the statement (b), this observer concludes that children brought up by rule, that is, fed regularly as to time and quantity, are thereby retarded in their mental growth; a gain, however, in physical strength is intimated. While considering this question of how to feed children, it is desirable that observers should read Pavy "On Food," or other authorities. Those who have already accepted the theory of "rule feeding," should recollect that an infant sometimes falls asleep before the needed amount of food is taken and will then fret for more before the appointed hour and thus, fatigued and faint, not be in a condition to easily digest food when it is next taken. The influence of undue prejudices must be guarded against in making observations, and because overfeeding sometimes induces illness care must be taken not to follow the other extreme and weaken a plump-looking child by the too long continued use of milk and farinaceous pap. The significance of the first appearance of the teeth should be noted and how long their legitimate use may with wisdom be delayed. Idiosyncracies of taste and cravings will often be observed, and

may well be regarded. Because this tender being is human, a moderate degree of change in its surroundings, and of variety in its food may be found essential to its physical and mental health. To pass safely through illnesses and to endure exercise and moderate excitements without fatigue will be the best test of these experiments, concerning food. Under (c), this observer expresses doubt as to what is meant by the "earliest exhibition of consciousness." To throw more light on the growth of self-consciousness in young children from the parents' point of view, is one of the objects of these studies. The subject has been examined and discussed by Prof. Preyer and Bernard Perez.* The children under consideration are peculiar from the fact that they were observed to smile the first days of their existence. The state of the subject under observation should be carefully considered in deciding upon a sign of development like that of the first smile. The facts connected with the delivery, if rapid and easy or slow and difficult, with development, whether perfect or imperfect, with the natural disposition, if it be merry or otherwise,—all these circumstances should be considered.

It will be noticed that these children were born in a more southern latitude than those of any other recorded cases which have been made public. It will be well to inquire whether this fact tends to hasten or retard development, or if any special result from such a circumstance is noticed by any observer.

CASE B.

A STUDY ON HEREDITARY TRAITS IN THE CASE OF C. W. S.

(Madison, Wisconsin, May 9, 1881.)

It was the father's system to observe certain inherited traits or to seek for their exhibition. He did not come of a literary or voluble race. Neither the father nor mother of the child in question is fluent in speech. The father is rather reserved, silent, and is accused of sullenness, frequently, from distaste of exercising his vocal functions. He dislikes talk in others even to the extent of being prejudiced against lectures, preaching, society, and even singing, except, in the latter case, singing that is scientific, so to speak. The mother does not talk much, though having no such prejudice against it in others,—preferring it, rather. It might be expected that

* *Les Trois Premières Annees de L'Infant.* Patis, 1878. See *Mind* for October, 1878.

the child would not show his intelligence mainly by fluency in articulating words. It is the father's opinion that speech comes natural, without being taught. He has observed in this child a gradual increase of power in the exercise of the vocal organs with the gaining of the teeth, and the strengthening of the various muscles of the mouth and chest. He is surprised indeed to notice how loud a voice a child can produce, even a very young child, compared with young animals of other species. It is to be observed also that the child seems to take up at times a habit of amusing itself by making various tones, or producing varying inflections of the voice—a sort of sound like preaching heard at a distance, or a ranting like a poor actor, then a hallooing, and again, as at a year old, of sounds alternately high and low at short intervals, somewhat as a person learning to sing practices octaves. Although deficient in vocal tastes, the father has a perhaps exceptional facility in acquiring arts of manual dexterity. He plays readily on half a dozen musical instruments, violin, violoncello, flute, zither, piano, and, as secondary to these, the organ, which requires a different touch not so easily acquired by many good musicians. As a musician he has had good instructors, and appreciates and performs music of Bach, Beethoven, Mendelssohn, Wagner, Berlioz, etc., and takes pleasure in the literature relating to this art. Naturally a musician cannot be wholly either right or left handed. Both hands and arms must be developed. Therefore it was with some curiosity that the child was observed, whether he would show marked preference for either hand. He does not. He shows remarkable impartiality of hand, but still there is an implied exercise of the right, as in taking up his playthings and throwing them away when playing or tired of them.

This might easily be inherited, for though a musical education would develop both hands, to paint and write and draw and otherwise use one hand would give that an added vigor which would have its influence. Then, too, in doing a certain thing, it is certainly a disadvantage to try to do it in different ways when its perfect doing is the result of repetition, and of acquiring habits relating to unconscious action rather than a discipline. It is the difference between art and mere tentative attempting.

It was the desire of the father to have the child show a preference for his own art, that of painting. Therefore he encouraged every implied turning towards this temperament. The wish of the child to be out of doors, his contented pleasure when there, his enjoyment in riding both in a baby wagon and in a buggy, seemed to imply that pleasure in nature which was desired. Tests were made to see if he distinguished tones, by putting him upon the piano and playing softly, even from earliest days. It was, however, very lately that he implied any recognition of musical tones, though he early gave notice of delicacy of hearing, yet seemed insensible to sounds like thunder, or cannons firing, for several

months. Now he has learned to understand tones of voice, and if told not to do a thing, understands it as a prohibition, though he may not obey, having, of course, no fear of punishment from disobeying; therefore, he will sometimes scamper away when he sees any one coming to interrupt his destructive employments. Destructiveness seems prominently displayed. His pleasure is to tear things, paper, strings; a probably curable trait.

When the violoncello is played, he likes to get up along side, often leaning against it; not from love of music, but to be in the thick of the stir. He has to be watched lest he put things into the round holes, another of his traits.

That there are retrograde days, and days of progression, seems evident. Some days he will learn half a dozen new tricks, then he may go for a month without trying anything. When he gets some "new wrinkle," he is not satisfied unless he can be doing it all the time. When learning to bear his weight on his feet, he must be attempting it with wearisome pertinacity. I think such childish habits as squinting the eyes up, sticking the tongue out, putting the head one side or the other, or hiding it, playing "peep," or "pata cake," should be noticed as things easily to be dated. The pulling a handkerchief off his head and laughing heartily at it, occurred when but a few months old.

Considerations as to facility with his fingers and hands should be noticed; the power of picking up very small things, of putting a stick to a definite place, as through a hole, etc.

That a child does most of his actions by inherited instinct seems to me most plausible. I think, as comparing children with dogs, that, aside from the physical condition, the inherited taste is first shown. Little puppies of a retriever breed will begin to take things hither and thither in their mouths long before puppies of an uneducated ancestry, though there will be a difference in talent and exceptions. In children, besides the natural self-assertion of a young child, there will continually crop out a hint of an inherited facility, which he uses without being taught. Then there is association. Having always seen a dog about, he has no fear of a dog, wants to pull him and roll about with him, does not fear the bark of a dog, though a little startled, if sharp; but of horses he has fear, and a certain fascinated interest,—wants to know them, and yet is afraid.

I throw out these suggestions without much thought of their proving particularly valuable, but in a belief that your list of questions would, in a scientific sense, be made more valuable if extended to individual qualities, to determine exactly what is natural to all children, what peculiar to the exceptionally intelligent, and what is the result of heredity and association.

The child above described by his father was born April 14, 1880; his parents were born respectively in Ohio in 1840, and in Minne-

sota in 1851. He weighed 8½ pounds at birth, 14 at three months old, and 21 at a year old, when also he was 29½ inches in height, and was strong and healthy. He smiled at five weeks (?), exhibited consciousness at eleven weeks, noticed pain at two weeks, noticed the light before eight weeks; could creep at ten months, and stand alone at twelve months.

CASE C.

ASHBURNHAM, MASS., July 18, 1881.

The children are twin boys, born June 5, 1881; the elder weighed 7 pounds, the younger 6, at birth. The elder had a thick, round head, plenty of dark hair, was stupid and sleepy; the younger had a head narrow and high, long from front to back, with no hair; he was active, with eyes wide open and restless; his mouth open and moving for food from the first. The elder seemed considerably the most mature. He recognized the light of a window (evidently) at the age of 20 hours,—as he was looking at it he was turned round so as to bring the other side towards the window, and at once turned his head towards it. He recognized sounds in a day or two. The younger recognized light and sound in the same way a day or two later,—in general he was a little later in all his developments.

June 15.—(Ten days old.) Both evidently noticed a piano played in another room,—stopped their incessant baby motions to listen, and put on the same listening look as adults do. This was repeated for a day or two, at times when the piano was played; but afterwards as the sound grew familiar they ceased to notice it.

June 25.—(Twenty days old.) Both lift their heads strongly, but cannot hold them up,—the elder, as usual, a day or two ahead. Between the third and fourth weeks they are beginning to fix their eyes on objects *as distinct*. The elder clearly looked at me as I talked to him, and also at a hand moved in front of him. Neither can yet follow an object, or knows which way to turn for a sound. They look at any one speaking, as yet, only occasionally and for a moment. They wink at a sudden sound, but not at a hand struck close to the eye. The nurse can wash through the eye at first, or throw water in it without their closing it. Tapping them all round the eye within half an inch of it, they do not move till the taps reach the nose near the inner angle, when they partially wink. They spring at sudden sounds, as of a door shutting.

July 2.—(Twenty-seven days.) The mother and babes moved to a new room down stairs. They looked round in wonder, stared evidently, in their new quarters. This soon ceased, in the main, so far as their new room was concerned, but is renewed when they are carried about.

July 4.—The bells and firing woke them rather early, and the younger soon grew nervous, so as to spring and throw up his hands at the explosion of a fire-cracker or other noise. This subsided as the morning clangor died away.

July 7–9.—(Fifth to sixth week.) They fix their eyes sharply on an object moving, or a person speaking, close in front of them. They begin to take evident pleasure in being talked to, drawing towards a smile occasionally when played with. They begin occasionally to turn their heads a little towards voices quite near,—that is, there seems to be the first dawn of an *intelligent* motion; mostly, however, mere aimless turning as yet. Their eyes, in their incessant rolling, usually move together, but not unfrequently they turn different ways, generally inwards; that is they look cross-eyed. This was not noticeable for the first three or four weeks, but evidently comes from the child's ill control of his muscles, now that he has gained the power, and attempts to look *at* objects definitely.

July 12–15.—The eldest has now no difficulty in looking at a person speaking to him, or at a near moving object, when directly in front of him. He evidently sees a person moving at a distance of 8 or 10 feet; the younger cannot do this yet. The elder now for a few days manifests pleasure in being talked or sung to, his face beaming, his arms striking out more vigorously, and himself often springing up towards the speaker. He looks at our *faces* now, with an intelligent look. The younger manifests all this in a less degree; that is, he traverses the same ground a few days later. The younger likes to be "cuddled" best; the elder has more of the "go it alone." Four or five of us are tending them, off and on, during the day, so that neither as yet seems to know the mother or any one in particular. If there is any special recognition it is occasionally of the housemaid, who comes in and sits with them while the family are at meals,—it does not amount to recognition, but to manifest liking of her voice and manner. They plainly know, as they lie on their mother's arm, her motion of preparing to nurse them, and change their hungry crying to an impatient brooding noise.

A singular thing was remarked by the nurse when she first undressed them (2d day), and has been noticeable ever since. As she expressed it, they "seemed to be afraid of falling to pieces." As they are being washed, and are turned over or raised or lowered, they clutch with their hands, spring, catch their breath, etc., precisely as if afraid of falling. This was very slight at first, but increases. The youngest, who is most nervous, shows it most. Both manifest this occasionally when dressed, but in a less degree. The younger shows the same feeling on being swung on the hands, and does not like it; while the elder enjoys the motion, and will often go to sleep that way. This fear of falling was not noticed when they were dressed for the first two or three weeks,—I doubt

if it was shown, for I several times looked for it. It evidently grows on them.

The most remarkable thing that I have watched so far has been the development of the *smile*. A baby does not smile or do any thing else *for the first time*. That is, nothing is clearly marked at first. The smile *begins* when the infant first begins to be conscious of outside things; attention gradually becomes closer, more fixed; the smile at this stage is the mere stare, vacant at first, but growing steadily more intelligent and wondering in its appearance. About the third week this begins to relax *very slightly* into the appearance of pleasure. At this point there comes first more and more of a glow on the face,—a beaming—then in a day or two a very slight relaxation of the muscles, increasing every day. Now —July 16–18 (sixth week), this is very noticeable in the elder,—his look of intelligence, of pleasure, of a dawning smile, is often very beautiful, but it is not as yet a smile. The younger is yet in the wondering, beaming, slightly pleasurable stage; he shows his satisfaction by pushing out his eyes and pursing of his mouth as if to whistle. The look (at this stage) in both may be described as one of satisfaction—self-satisfaction—rather than of pleasure. The smile is just now incipient, just beginning, in the younger, and well-nigh developed, *almost* a smile, in the elder. But I am confident no one will ever know the exact day when the baby fairly and intelligently for the first time *smiles*.

(At a later date—Nov. 2, 1881.) There are some other items which I was not prepared to insert at the former time of writing. For instance, my wife insisted from the first that the boys were strikingly "marked" from the two pictures hanging in my library. The resemblance was indeed startling at first sight, but I was desirous of confirming it by more careful thought. The pictures were of Agassiz and Horace Mann, as unlike as could well be imagined. But there can be no question whatever that the elder boy had the features, expression, hair, short neck, etc., of Agassiz,—while the younger had the thin hair, sickly eyes, etc., of Mann's picture. The hair on Agassiz's head is parted on the right, and falls over to the left, giving the right a bald appearance. The babe has exactly this baldness, the hair growing an inch farther forward on the left side than on the right! The resemblance in the elder still continues (and may it ever, mentally and morally!) but the younger has mainly outgrown his resemblance to the other picture,—though my wife insists that the resemblance is only obscured, and will reappear when the baby plumpness passes away.

Another thing that has interested me has been the change in the head of the younger as indicated by the rough diagram enclosed. From being a little, weak, thin-headed baby, he has grown a strong, fat, round-headed boy.

But I weary you. I am so pressed with work that I have very little time to make observations, and still less to record them. But

the subject is very interesting and full of instruction, though so much beyond our reach.

CASE D.

(Delft, Holland, 1877–81.)

The following study is of special interest from the facts that the birthplace of the subject is quite remote, the food on which the child was nourished in infancy is unlike that usually provided for young children in America, and he has been from birth and is still under careful observation by competent parents. The father is a native of The Hague, and is a doctor of science and professor of chemistry. The mother was born in Alkmaar; she is proficient in several languages, in literature and in music. They now reside in Delft, Holland, where the boy was born in January, 1877. He weighed at birth 8⅓ pounds, at 2½ years 33 pounds, at 4 years 44 pounds. During the first three weeks he slept 19 hours out of the 24. He laughed for the first time, but unconsciously, at the age of 3 weeks; and smiled wittingly in the 7th week. He followed a light with his eyes in the 6th week, held up his head in the 3d month, and cut two teeth in the 4th month. At the same age he held objects firmly in his right hand, and could also throw them with force. He had natural nourishment till 6 weeks old, then Liebig's food for infants was added till 3 months old, and after, that was the only food, when milk was given up. At present he likes all kinds of food, except butter, cheese and vinegar, but prefers bread, milk, and meat. At 6½ months he began to say *ada*, *aida*, *jaja;* at 9 months he said *papa* and *mamma*. At 21 months he could talk very well, and had an excellent memory; he could also sing correctly. At 20 months he could recite several little verses, and knew the letters of the alphabet, both large and small; he could also point out and name all the parts of the body. At 22 months he first spoke of "*me*" as a personality; he also knew the different colors. At 2½ years he could sing several songs with only the aid of the piano. His body is large and strong and his head well formed. It has always been difficult for him to pronounce the letter *l* and is still. He is now, at the age of 4 years, learning to play the piano. He has a very clear and sweet singing voice, and readily takes an octave either above or below any pitch given him.

A full diary of the development of this boy to the present time is at the disposal of the Committee should they desire it.

It is desirable to know more about the kinds of food given to very young children in Holland. Possibly the experience of another year will furnish further information on the subject. During the past summer a party of physicians staying in Rotterdam were greatly impressed with the clean, healthy and happy appearance of the children in the streets. Although a commercial town, and subject as other seaports are to a low moral influence, which is soon made manifest in the neglect and squalor of the young, nothing of the sort is to be seen in Rotterdam. The bright eyes and rosy cheeks of the infants tempted an inquiry of the parents as to their method of caring for their children. A daily bath, lightly boiled cold eggs morning and night, meat at noon, and all the bread and milk they desired in addition, was said to be the "custom" in Rotterdam. If this is correct, how far through Holland does it prevail? and how far is the same custom followed in other countries? A comparative study of some of the results of this manner of feeding the young, and of a milk and farinaceous diet would be of great value.

CASE E.

WATERVILLE, MAINE.

Another comparative case is submitted, that of two boys, both of whom were born in Connecticut, together with their parents.

No. 1, at 8 weeks, "tries to smile;" No 2, at 8 weeks, "smiles beautifully." Both held up their heads at birth; this was remarked by several persons. No. 1 sat alone on the floor at 8 months, No. 2 at 5½ months. No. 1 stood alone at 14 months; No. 2 stood alone in the middle of the floor at 10 months, and waved a wooden dumb bell. No. 1, at 1 year, could utter syllables, but no words. No. 2 could speak, at the same age, four words of his own, and imitate everything. At 15 months No. 1 could say a very few words; No. 2 everything, but verbs were given in the imperative. At 2 years old No. 1 talked exactly as No. 2 did at 18 months; while No. 2 was a perfect chatterbox. The weight of No. 2 at 2 years was 36 pounds, height 37 inches. The weight and height of No. 1 is not given when at the same age. It will

be seen in the following remarks made by the mother of these children, that the influence of the power of imitation has attracted her particular attention.

June 3, 1881.—I have kept records, but have concerned myself more with the *relative* development than the *absolute time* of the appearance of any new phenomena, and the dates are not those of the *first* time an act was noticed, but such time as the habit was well formed. (I think I was afraid of a mother's partiality!) I have, therefore, put down only so much as I found absolutely stated, and have put the two children together, that you may see how much ahead (*in time*) No. 2 is of No. 1, in *walking and talking*. I am curious to know if that is not apt to be the case. I have noticed very many things in which the children imitate each other, and they never talk very much alike. No. 2 had No. 1 to imitate, while No. 1 had no child to copy after. I put their height in answer to "strong and healthy?" because growth in that direction seems to me as important as that in weight. My children are not at all *precocious*, but I *am* rather proud of their physical development,—striving for *mens sana in corpore sano*. I have particularly desired to investigate the *lingual development* (order of parts of speech, &c.), as an indication of character, and last winter went so far as to prepare a circular to forward to my Vassar friends, but was prevented by sickness and removal to this place. I shall, therefore, look with great eagerness for results which may come through this attempt of the Social Science Association, and shall be glad if you will send me anything you may publish pertaining to the subject. I should vote that an enquiry be made into the "occupation" of the mother as well as of the father. Ruffles and frills *versus* "cultivation of brains" for instance—will it not make a difference in the weight of the baby? I think it does. I don't feel satisfied with Dr. Preyer's suggestion that fathers should take up this matter. Scientific observation of the baby ought to be the mother's compensation for the tedious routine of her daily duties.

CASE F.

M. G. D., born in Rockingham County, Virginia, Feb. 25, 1881, is the daughter of parents of more than common attainments. The mother, who has displayed great skill and success in developing the faculties of her family of seven children, from the first week of their existence, pays much attention to the formation of their habits. She is much opposed to corporeal, or any other severe punishment. This infant was strong and large at birth, and at 4 months weighed 17½ pounds. She noticed the prick of a

pin when 2 days old; when three weeks old she smiled; at 10 weeks she held up her head, and reached out and took a plaything at 12 weeks. The mother writes to the Committee as follows:

This baby is now four months old, and is thought by all to be a remarkably fine child. She is very large, sits up boldly when held on the arm, and shows evident preference for some members of the family; fretting to be taken by her father, who always carries her to the open air, and shows her little dogs and other pets. When sleepy or hungry, she frets to be taken by her mother, though at other times quite willing to be in the room with me, and carried by the nurse and older children. She has one tooth, a very unusual thing I think, for I never saw a child who had any teeth before six months, nor generally before eight, except one of my other children, a little girl now seven years old, who also had two teeth at four months. The baby resembles this little sister in physique, development, features, and color of hair, but not of the eyes. The little girl mentioned spoke nine words plainly at nine months of age. This we noticed at the time, as her father was reading the life of a Lord High Chancellor of England, an ancestor of the baby, and drew my attention to the fact that the mother of the distinguished jurist had mentioned in letters to friends that at eight months he could pronounce several words quite plainly. The fact of the relationship might have no psychological significance, being eight degrees removed, but that the same ancestor stands in equal degree of relationship to both father and mother of this child's father, and that there have been several marriages of cousins intervening.

Children vary greatly in the development of strength as well as sense. One of my boys at the age of 16 months could not speak a word or walk a step, but at his present age, 14 years and 1 week, he measures 5 feet 8 inches, and can walk 20 miles in a day.

I had supposed, from my experience with this boy, that girls developed more rapidly than boys, but a little boy 2½ years old was a precocious child, walking before he was a year old, and learning little hymns and songs when 16 months old. He also shows great powers of observation, as noticed by us all one day when he was about 26 months old. Several older members of the family were commenting upon the improved appearance of a cow which we had bought a few months before, looking at the time at an animal supposed to be the cow mentioned. Little Willie looked out of the window an instant and exclaimed, "dat is not our tow, dat is Mrs. Paul's tow in our yard,"—which proved to be the fact. Both cows were red with white spots, and had crumpled horns. This little boy, when less than 2 years old, would tell visitors accurately the pedigrees, for several removes, of the horses whose pictures his father has hung up about the house. This faculty, as well as his acute observation of animals, is a direct inheritance

from his father and paternal grandfather, both of whom had an impression that "blood is thicker than water," and were enthusiasts in genealogies and pedigrees (English characteristics), as well as "physical perfectionists."

One of the advantages ladies of the South can see in their adversity, which certainly seems at times "like the toad, ugly and venomous," is, that being deprived of the faithful "mammys" who guarded their own infancy, they are obliged to keep their little ones more under their own care, and can see that the senses, so early and keenly alive to impressions, shall have such care as will train and lead them in the right direction. This is a subject in which I feel great interest, for I think few mothers are aware how early children can be trained to habits of neatness, truth, love, etc.

The Committee have received notes of many other cases, which will be presented hereafter; but the above examples will be sufficient to indicate the character and variety of the observations reported to the Department Committee, in response to Mrs. Talbot's Circular. It will be understood that the Committee disclaim all responsibility for the sentiments expressed by the writers of the various reports, which often indicate the influences under which the child is developed. The Register will be given on pages 51–52.

M. HIPPOLYTE TAINE'S PAPER ON INFANT DEVELOPMENT.

(Reprinted from *Mind*, April, 1877, No. VI., p. 252.)

The following observations were made from time to time, and written down on the spot. The subject of them was a little girl whose development was ordinary, neither precocious nor slow.

From the first hour, probably from reflex action, she cried incessantly, kicked about and moved all her limbs, and perhaps all her muscles. In the first week, no doubt also by reflex action, she moved her fingers, and even grasped for some time, one's fore-finger when given her. About the third month she begins to feel with her hands and to stretch out her arms, but she cannot yet direct her hand; she touches and moves at random; she tries the movements of her arms and the tactile and muscular sensations which follow from them,—nothing more. In my opinion it is out of this enormous number of movements, constantly essayed, that there will be gradually evolved by gradual selection the intentional movements having an object and attaining it. In the last fortnight (at two and a half months), I make sure of one that is evidently acquired; hearing her grandmother's voice she turns her head to the side from which it comes. There is the same spontaneous apprenticeship for cries as for movements. The progress of the vocal organs goes on just like that of the limbs; the child learns to emit this or that sound, as it learns to turn its head or its eyes, that is to say, by gropings and constant attempts.

At about three and a half months, in the country, she was put on a carpet in the garden; there lying on her back or stomach for hours together, she keeps moving about her four limbs, and uttering a number of cries and different exclamations, but vowels only, no consonants; this continued for several months. By degrees consonants were added to vowels, and the exclamations became more and more articulate. It all ended in a very distinct sort of twittering, which would last a quarter of an hour at a time, and be repeated ten times a day. The sounds (both vowels and consonants), at first very vague and difficult to catch, approached more and more nearly to those we pronounce, and the series of simple cries came almost to resemble a foreign language that we could not understand. She takes delight in her twitter like a bird; she seems to smile with joy over it, but as yet it is only the twittering of a bird, for she attaches no meaning to the sounds she utters. She has learned only the materials of language. (Twelve months.) She has acquired the greater part quite by herself, the rest thanks to the help of others and by imitation. She first made the sound *mm* spontaneously by blowing noisily with closed lips. This amused her, and was a discovery to her. In the same way she made another sound, *kraaau*, pronounced from the throat in deep

gutterals; this was her own invention, accidental and fleeting. The two noises were repeated before her several times; she listened attentively and then came to make them immediately she heard them. In the same way with the sound *papapapa*, which she said several times by chance and of her own accord, which was then repeated to her a hundred times to fix it in her memory, and which in the end she said voluntarily, with a sure and easy execution (always without understanding its meaning), as if it were a mere sound that she liked to make. In short, example and education were only of use in calling her attention to the sounds that she had already found out for herself, in calling forth their repetition and perfection, in directing her preference to them, and making them emerge and survive amid the crowd of similar sounds. But all the initiative belongs to her. The same is true of her gestures. For many months she has spontaneously attempted all kinds of movements of her arms, the bending of the hands over the wrist, the bringing together of the hands, etc. Then after being shown the way, and with repeated trials, she has learned to clap her hands to the sound *bravo*, and to turn her hands regularly to the strain *au bois Joliette*, etc. Example, instruction and education are only directing channels, the source is higher. To be sure of this it is enough to listen for a while to her twitter. Its flexibility is surprising, I am persuaded that all the shades of emotion,—wonder, joy, wilfulness and sadness,—are expressed by differences of tone; in this she equals or even surpasses a grown-up person. If I compare her to animals, even to those most gifted in this respect (the dog, the parrot, singing-birds), I find that with a less extended gamut of sound, she far surpasses them in the delicacy and abundance of her expressive intonations. Delicacy of impressions and delicacy of expressions are, in fact, the distinctive characteristics of man among animals, and as I have shown (*De l'Intelligence* I. b. i.) are the source in him of language and of general ideas; he is among them what a great and fine poet—Heine or Shakespeare—would be among workmen and peasants; in a word, man is sensible of innumerable shades, or rather of a whole order of shades which escape them.

The same thing is seen, besides, in the kind and degree of his curiosity. Any one may observe that from the fifth or sixth month children employ their whole time, for two years and more, in making physical experiments. No animal, not even the cat or dog, makes this constant study of all bodies within its reach; all day long the child of whom I speak (at twelve months), touches, feels, turns round, lets drop, tastes and experiments upon everything she gets hold of; whatever it may be, ball, doll, coral or plaything when once it is sufficiently known it is thrown aside; it is no longer new, she has nothing to learn from it, and has no farther interest in it. It is pure curiosity; physical need, greediness count for nothing in the case; it seems as if already in her little brain every

group of perceptions was tending to complete itself, as in that of a child who makes use of language.

As yet she attaches no meaning to any word she utters, but there are two or three words to which she attaches meaning when she hears them. She sees her grandfather every day, and a chalk portrait of him, much smaller than life, but a very good likeness, has been often shown her. From about ten months, when asked "Where is grandfather?" she turns to this portrait and laughs. Before the portrait of her grandmother, not so good a likeness, she makes no such gesture, and gives no sign of intelligence. From eleven months when asked "Where is mamma?" she turns towards her mother, and she does the same for her father. I should not venture to say that these three actions surpass the intelligence of animals. A little dog, here, understands as well when it hears the word, *sugar;* it comes from the other end of the garden to get a bit. There is nothing more in this than an association, for the dog, between a sound and some sensation of taste, for the child between a sound and the form of an individual face perceived; the object denoted by the sound has not as yet a general character. However, I believe that the step was made at twelve months; here is a fact decisive in my opinion. This winter she was carried every day to her grandmother's, who often showed her a painted copy by Luini of the Infant Jesus naked, saying at the same time "there's *bébé.*" A week ago, in another room, when she was asked "where's *bébé?*" meaning herself, she turned at once to the pictures and engravings that happened to be there. *Bébé* has then a general signification for her, namely, whatever she thinks is common to all pictures and engravings of figures and landscapes; that is to say, if I am not mistaken, *something variegated in a shining frame.* In fact, it is clear that the objects painted or drawn in the frame are as Greek to her; on the other hand, the bright square enclosing any representation must have struck her. This is her first general word. The meaning that she gives it is not what we give it, but it is only the better fitted for showing the original work of infantile intelligence. For if we supplied the word, we did not supply the meaning; the general character which we wished to make the child catch, is not that which she has chosen. She caught another, suited to her mental state, for which we have no precise word.

(Fourteen months and three weeks.) The acquisitions of the last six weeks have been considerable; she understands several more words besides *bébé*, and there are five or six that she uses attaching meaning to them. To the simple warbling, which was nothing but a succession of vocal gestures, the beginings of intentional and determinate language have succeeded. The principal words she at present utters, are *papa*, *mama*, *tété* (nurse) *oua-oua* (dog), *ko-ko* (chicken), *dada* (horse, or carriage), *mia* (cat, puss), *kaka* and *tem;* the two first were

papa and *tem*, this last word very curious, and worth the attention of the observer. *Papa* was pronounced for more than a fortnight unintentionally and without meaning, as a mere twitter, an easy and amusing articulation. It was later that the association between the word and the image, or perception of the object was fixed, that the image or perception of her father called to her lips the sound *papa*, that the word uttered by another definitely and regularly called up in her the remembrance, image, and expectation of and search for her father. There was an insensible transition from the one state to the other, which it is difficult to unravel. The first state still returns at certain times though the second is established; she still sometimes plays with the sound, though she understands its meaning. This is seen in her later words, for instance, in the word *kaka*. To the great displeasure of her mother, she still often repeats this ten times in succession, without purpose or meaning, as an interesting vocal exercise, and to exercise a new faculty; but she often also says it with a purpose when there is occasion. Further, it is plain that she has changed or enlarged its meaning, as with the word *bébé;* for instance, yesterday in the garden, seeing two little wet places left by the watering-pot on the gravel, she said her word with an evident meaning; she meant by it *whatever wets*.

She makes imitative sounds with great ease. She has seen and heard chickens, and repeats *koko*, much more exactly than we can do, with the gutteral intonations of the creatures themselves. This is only a faculty of the throat; there is another much more striking, which is the specially human gift, and which shows itself in twenty ways, I mean the aptitude for seizing analogies — the source of general ideas and of language. She was shown birds two inches long, painted red and blue on the walls of a room, and was told once "there are *kokos*." She was at once sensible of the resemblance, and for half a day her great pleasure was to be carried along the walls of the room crying out *koko!* with joy at each fresh bird. No dog or parrot would have done as much; in my opinion, we come here on the essence of language. Other analogies are seized with the same ease. She was in the habit of seeing a little black dog belonging to the house, which often barks, and it was to it she first learned to apply the word *oua-oua*. Very quickly, and with very little help, she applied it to dogs, of all shapes and kinds that she saw in the streets, and then, what is still more remarkable, to the bronze dogs near the stair-case. Better still, the day before yesterday, when she saw a goat a month old that bleated, she said *oua-oua*, calling it by the name of the dog, which it is much like in form, and not by that of the horse which is too big, or of the cat which has quite a different gait. This is the distinctive trait of man; two successive impressions, though very unlike, yet leave a common residue, which is a distinct impression, solicitation, impulse, of which the final effect is some expression invented or suggested; that is to say, some gesture, cry, articulation, name.

I now come to the word *tem*, one of the most remarkable, and one of the first she uttered. All the others were probably attributives, and those who heard them had no difficulty in understanding them; this is probably a demonstrative word; and as there was no other into which it could be translated, it took several weeks to make out its meaning. At first, and for more than a fortnight, the child uttered the word *tem*, as she did the word *papa*, without giving it a precise meaning, like a simple twitter. She made a dental articulation ending with a labial articulation, and was amused by it. Little by little she associated this word with a distinct intention; it now signifies for her, *give*, *take*, *look;* in fact, she says it very decidedly several times together, in an urgent fashion, sometimes that she may have some new object that she sees, sometimes to get us to take it, sometimes to draw attention to herself. All these meanings are mixed up in the word *tem*. Perhaps it comes from the word *tiens* that is often used to her, and with something of the same meaning. But it seems to me rather a word that she has created spontaneously, a sympathetic articulation that she herself has found in harmony with all fixed and distinct intention, and which, consequently, is associated with her principal fixed and distinct intentions, which at present are desires to take, to have, to make others take, to look, to make others look. In this case, it is a *natural vocal gesture*, not learned, and at the same time imperative and demonstrative, since it expresses both command and the presence of the object to which the command refers; the dental *t* and the labial *m* united in a short, dry, and quickly stifled sound, correspond very well without convention, and by their nature alone, to this start of attention, to this sharp and decided outbreak of volition. This origin is the more probable because other and later words, of which we shall presently speak, are evidently the work, not of imitation but of invention,

(From the 15th to the 17th month.) Great progress. She has learned to walk, and even to run, and is firm on her little legs. We see her gaining ideas every day, and she understands many phrases, for instance: "bring the ball," "come to papa's knee," "go down," "come here," etc. She begins to distinguish the tone of displeasure from that of satisfaction, and leaves off doing what is forbidden her with a grave face and voice; she often wants to be kissed, holding up her face and saying in a coaxing voice, *papa* or *mama*, — but she has learned or invented very few new words. The chief are *Pa* (Paul), *Babert* (Gilbert), *bébé* (baby), *béé́é́* (goat), *cola* (chocolate) *oua-oua* (anything good to eat), *ham* (eat, I want to eat). There are a good many others that she understands but cannot say, — for instance, *grand-père* and *grand-mère*, — her vocal organs having been too little exercised to produce all the sounds that she knows, and to which she attaches meaning. *Cola* (chocolate) is one of the first sweetmeats that was given her, and it is the one she likes the best. She went

every day to her grandmother's, who would give her a lozenge. She knows the box very well, and keeps on pointing to it to have it opened. Of herself and without, or rather in spite of us, she has extended the meaning of the word and applies it now to anything sweet; she says *cola* when sugar, a tart, a grape, a peach, or a fig is given her. We have already had several examples of this spontaneous generalization; it was easy in this instance, for the tastes of chocolate, of the grape, of the peach, etc., agree in this, — that being all pleasant they provoke the same desire, that of experiencing once more the agreeable sensation. So distinct a desire or impulse easily leads to a movement of the head, a gesture of the hand, an expression, and consequently to a word.

Bébé. We have seen the strange signification that she at first gave to this word; little by little she came nearer to the usual meaning. Other children were pointed out to her as *bébés*, and she was herself called by the name, and now answers to it. Further, when put down before a very low mirror and shown her face reflected in it, she was told "that's *bébé*," and she now goes alone to the mirror and says *bébé*, laughing when she sees herself. Starting from this she has extended the meaning of the word, and calls *bébés* all little figures, — for instance, some half-size plaster statues which are on the stair-case, and the figures of men and women in small pictures and prints. Once more, education produced an unexpected effect upon her; the general character grasped by the child is not what we intended; we taught her the sound, she has invented the sense.

Ham (eat, I want to eat). Here both sound and sense were invented. The sound was first heard in her fourteenth month. For several weeks I thought it no more than one of her warblings, but at last I found that it was always produced without fail in the presence of food. The child now never omits to make it when she is hungry or thirsty, all the more that she sees we understand it, and that by this articulation she gets something to eat or drink. On listening attentively and attempting to reproduce it, we perceive that it is the *natural vocal gesture* of a person snapping up anything; it begins with a gutteral aspirate like a bark, and ends with the closing of the lips as if food were seized and swallowed. A man among savages would do just the same, if with tied hands, and solely dependent for expression on his vocal organs, he wished to say that he wanted food. Little by little the intensity and peculiarity of the original pronunciation were lessened; we had repeated her word but in a milder form; consequently she left off making so much of the gutteral and labial parts, and the intermediate parts came to the front; instead of *Ham* she says *am*, and now we generally use the word as she does. Originality and invention are so strong in a child, that if it learns our language from us we learn it from the child.

Oua-oua. It is only for the last three weeks (the end of her

sixteenth month) that she has used this word in the sense of something good to eat. It was some time before we understood it, for she has long used it, and still uses it, besides, in the sense of dog. A barking in the street never fails to call forth this word in the sense of dog, uttered with the lively joy of a discovery. In the new sense the sound has oscillated between *va-va* and *oua-oua*. Very likely the sound that I write *oua-oua* is double to her according to the double meaning she attaches to it, but my ear cannot catch the difference; the senses of children, much less blunted than ours, perceive delicate shades that we no longer distinguish. In any case, on seeing at table a dish she wishes for, she says *oua-oua* several times in succession, and she uses the same word when, having eaten some of it, she wishes for more; but it is always in presence of a dish and to point out something eatable. By this the word is distinguished from *am*, which she only uses to make known her want of food, without specifying any particular thing. Thus, when in the garden she hears the dinner-bell she says *am*, and not *oua-oua;* on the other hand, at table before a cutlet, she says *oua-oua* much oftener than *am*. For the last two months, on the other hand, she has left off using the word *tem* (give, take, look), of which I spoke above, and I do not think she has replaced it by another. This is no doubt because we did not choose to learn it, for it did not correspond to any one of our ideas, but combined three that are quite distinct; we did not use it with her, and therefore she left off using it herself.

On summing up the facts I have just related we arrive at the following conclusions, which observers should test by observations made on other children. At first a child cries and uses its vocal organs, in the same way as its limbs, spontaneously and by reflex action. Spontaneously and from mere pleasure of action it then uses its vocal organs in the same way as its limbs, and acquires the complete use of it by trial and error. From inarticulate it thus passes to articulate sounds. The variety of intonation that it acquires shows in it a peculiar delicacy of impression and expression. By this delicacy it is capable of general ideas. We only help it to catch them by the suggestion of our words. It attaches to them ideas that we do not expect, and spontaneously generalizes outside and beyond our limits. At times it invents not only the meaning of the word, but the word itself. Several vocabularies may succeed one another in its mind, by the obliteration of old words, replaced by new ones. Many meanings may be given in succession to the same word, which remains unchanged. Many of the words invented are natural vocal gestures. In short, it learns a ready-made language as a true musician learns counterpoint or a true poet prosody; it is an original genius, adapting itself to a form constructed bit by bit by a succession of original geniuses; if language were wanting, the child would recover it little by little, or would discover an equivalent.

These observations were interrupted by the calamities of the year 1870. The following notes may help to determine the mental state of a child; in many respects it is that of primitive peoples at the poetical and mythological stage. A jet of water, that the child saw under the window for three months, threw her every day into new transports of joy, as did also the river under a bridge; it was evident that sparkling running water seemed to her to be of extraordinary beauty. "*L'eau, l'eau!*" she goes on exclaiming (twenty months). A little later (two and a half years) she was very much struck by the sight of the moon. She wanted to see it every evening; when she saw it through the window panes there were cries of joy; when she walked it seemed to her that it walked too, and this discovery charmed her. As the moon, according to the hour, appeared in different places, — now in front of the house, now behind it, — she cried out "Another moon, another moon!" One evening (three years) on enquiring for the moon, and being told that it had set (*qu'elle est alleé se coucher*) she replies "But where's the moon's *bonne?*" All this closely resembles the emotions and conjectures of primitive peoples, their lively and deep admiration for great natural objects, the power that analogy, language and metaphor exercise over them, leading to solar and lunar myths, etc. If we admit that such a state of mind was universal at any time, we could at once divine the worship and legends that would be formed. They would be those of the *Vedas*, of the *Edda*, and even of Homer. If we speak to her of an object at a little distance, but that she can clearly represent to herself from having seen it, or others like it, her first question always is, "What does it say?" "What does the rabbit say?" "What does the bird say?" "What does the horse say?" "What does the big tree say?" Animal or tree, she immediately treats it as a person, and wants to know its thoughts and words; that is what she cares about; by spontaneous induction she imagines it like herself, like us; she humanises it. This disposition is found among primitive peoples, the stronger the more primitive they are; in the *Edda*, especially in the *Mabinogeon*, animals have also the gift of speech; the eagle, the stag, and the salmon, are old and experienced sages, who remember bygone events and instruct man.

It takes much time and many steps for a child to arrive at ideas which to us seem simple. When her dolls had their heads broken she was told they were dead. One day her grandmother said to her, "I am old, I shall not be always with you, I shall die." "Then shall you have your head broken?" She repeated this idea several times and still (three years and a month) with her "to be dead" is to have the head broken. Day before yesterday, a magpie, killed by the gardener, was hung by one foot at the end of a stick, like a fan; she was told that the magpie was dead and she wished to see it. "What is the magpie doing?" "It is doing nothing, it can't move, it is dead." "Ah!" For the first time the idea of final

immobility entered her head. Suppose a people to stop short of this idea and not define death otherwise; the other world would be to it the *scheol* of the Hebrews, the place where the immovable dead live a vague, almost extinct life. *Yesterday* means to her *in the past*, and *to-morrow in the future*, neither of these words denoting to her mind a precise day in relation to today, either preceding or following it. This is another example of too extended a meaning which must be narrowed. There is hardly a word used by children which has not to undergo this operation. Like primitive peoples they are inclined to general and wide ideas; linguists tell us that such is the character of roots, and consequently of the first conceptions, as they are found in the most ancient documents, especially in the *Rig-veda*. Speaking generally, the child presents in a passing state the mental characteristics that are found in a fixed state in primitive civilizations; very much as the human embryo presents in a passing state the physical characteristics that are found in a fixed state in the classes of inferior animals.

This lively paper having been published in *Mind*, was immediately followed by some observations of much earlier date, (but later than those of Mr. Alcott) which had been recorded by the great naturalist, Darwin. Mr. Darwin called his paper (published in July, 1877),

A BIOGRAPHICAL SKETCH OF AN INFANT.

BY CHARLES DARWIN.

M. Taine's very interesting account of the mental development of an infant, translated in the last number of *Mind* (p. 252), has led me to look over a diary which I kept 37 years ago, with respect to one of my own infants. I had excellent opportunities for close observation, and wrote down at once whatever was observed. My chief object was expression, and my notes were used in my book on this subject; but as I attended to some other points, my observations may possibly possess some little interest in comparison with those by M. Taine, and with others which hereafter, no doubt, will be made. I feel sure, from what I have seen with my own infants, that the period of development of the several faculties will be found to differ considerably in different infants.

During the first seven days various reflex actions, namely sneezing, yawning, stretching, and of course sucking and screaming, were well performed by my infant. On the seventh day, I touched the naked sole of his foot with a bit of paper, and he jerked it away, curling at the same time his toes, like a much older child when tickled. The perfection of these reflex movements shows that the extreme imperfection of the voluntary is not due to the

state of the muscles, or of the co-ordinating centres, but to that of the seat of the will. At this time, though so early, it seemed clear to me that a warm soft hand applied to his face excited a wish to suck. This must be considered as a reflex or an instinctive action, for it is impossible to believe that experience and association with the touch of the mother's breast could so soon have come into play. During the first fortnight he often started on hearing any sudden sound, and blinked his eyes. The same fact was observed with some of my other infants within the first fortnight. Once, when he was 66 days old I happened to sneeze, and he started violently, looked frightened, and cried rather badly; for an hour afterwards he was in a state which would be called nervous in an older person, for every slight noise made him start. A few days before this same date, he first started at an object suddenly seen; but for a long time afterwards sounds made him start and wink his eyes much more frequently than did sight; thus when 114 days old, I shook a pasteboard box with comfits in it near his face and he started, whilst the same box when empty, or any other object shaken as near or much nearer to his face produced no effect. We may infer from these several facts that the winking of the eyes, which manifestly serves to protect them, had not been acquired through experience. Although so sensitive to sound in a general way, he was not able, even when 124 days old, easily to recognize whence a sound proceeded, so as to direct his eyes to the source.

With respect to vision, his eyes were fixed on a candle as early as the 9th day, and up to the 45th nothing else seemed thus to fix them; but on the 49th day his attention was attracted by a bright colored tassel, as was shown by his eyes becoming fixed and the movements of his arms ceasing. It was surprising how slowly he acquired the power of following with his eyes an object if swinging at all rapidly; for he could not do this well when seven and a half months old. At the age of 32 days he perceived his mother's bosom when three or four inches from it, as was shown by the protrusion of his lips and his eyes becoming fixed; but I much doubt whether this had any connection with vision; he certainly had not touched the bosom. Whether he was guided by smell or the sensation of warmth or through association with the position in which he was held, I do not at all know.

The movements of his limbs and body were for a long time vague and purposeless, and usually performed in a jerking manner; but there was one exception to this rule, namely, that from a very early period, certainly long before he was 40 days old, he took the sucking-bottle (with which he was partly fed) in his right hand, whether he was held on the left or right arm of his nurse, and he would not take it in his left hand until a week later, although I tried to make him do so; so that the right hand was a week in advance of the left. Yet this infant afterwards proved to be left-handed, the tendency being no doubt inherited, his grandfather, mother and

a brother having been, or being, left-handed. When between 80 and 90 days old, he drew all sorts of objects into his mouth, and in two or three weeks' time could do this with some skill; but he often first touched his nose with the object and then dragged it down to his mouth. After grasping my finger and drawing it to his mouth, his own hand prevented him from sucking it; but on the 114th day, after acting in this manner he slipped his own hand down so that he could get the end of my finger into his mouth. This action was repeated several times, and evidently was not a chance but a rational one. The intentional movements of the hands and arms were thus much in advance of those of the body and legs; though the purposeless movements of the latter were from a very early period usually alternate as in the act of walking. When four months old, he often looked intently at his own hands and other objects close to him, and in so doing the eyes were turned much inwards, so that he often squinted frightfully. In a fortnight after this time (*i.e.*, 132 days old) I observed that if an object was brought as near to his own face as his own hands were, he tried to seize it, but often failed; and he did not try to do so in regard to more distant objects. I think there can be little doubt that the convergence of his eyes gave him the clue and excited him to move his arms. Although this infant thus began to use his hands at an early period, he showed no special aptitude in this respect; for when he was 2 years and 4 months old, he held pencils, pens, and other objects far less neatly and efficiently than did his sister who was then only 14 months old, and who showed great inherent aptitude in handling anything.

Anger. It was difficult to decide at how early an age anger was felt; on his eighth day he frowned and wrinkled the skin around his eyes before a crying fit, but this may have been due to pain or distress, and not to anger. When about ten weeks old, he was given some rather cold milk, and he kept a slight frown on his forehead all the time he was sucking, so that he looked like a grown-up person made cross from being compelled to do something which he did not like. When nearly four months old, and perhaps much earlier, there could be no doubt, from the manner in which the blood gushed into his whole scalp and face, that he easily got into a violent passion. A small cause sufficed; thus, when a little over seven months old, he screamed with rage because a lemon slipped away and he could not seize it with his hands. When eleven months old, if a wrong plaything was given him, he would push it away and beat it; I presume the beating was an instinctive sign of anger, like the snapping of the jaws of a young crocodile just out of the egg, and not that he imagined that he could hurt the plaything. When two years and three months old, he became a great adept at throwing books, or sticks, etc., at any one who offended him; and so it was with some of my other sons. On the other hand, I could never see a trace of such aptitude in

my infant daughters; and this makes me think that a tendency to throw objects is inherited by boys.

Fear. This feeling is probably one of the earliest which is experienced by infants, as shown by their starting at any sudden sound when only a few weeks old, followed by crying. Before the present one was four and a half months old I had been accustomed to make, close to him, many strange and loud noises, which were all taken as excellent jokes, but at this period I one day made a loud snoring noise which I had never done before; he instantly looked grave, and then burst out crying. Two or three days after I made, through forgetfulness, the same noise with the same result. About the same time (viz., on the 137th day), I approached with my back towards him and then stood motionless; he looked very grave and much surprised, and would soon have cried, had I not turned round; then his face relaxed into a smile. It is well known how intensely older children suffer from vague and undefined fears, as from the dark, or in passing an obscure corner in a large hall, etc. I may give as an instance that I took the child in question, when two and a quarter years old, to the Zoological Gardens, and he enjoyed looking at all the animals which were like those he knew, such as deer, antelope, etc., and all the birds, even the ostriches, but was much alarmed at the various larger animals in cages. He often said afterwards that he wished to go again, but not to see "the beasts in houses;" and we could in no manner account for this fear. May we not suspect that the vague but very real fears of children, which are quite independent of experience, are the inherited effects of real dangers and abject superstitions during ancient savage times? It is quite conformable with what we know of the transmission of formerly well-developed characters, that they should appear at an early period of life, and afterwards disappear.

Pleasurable Sensations. It may be presumed that infants feel pleasure while sucking, and the expression of their swimming eyes seems to show that this is the case. This infant smiled when 45 days, a second infant when 46 days old; and these were true smiles, indicative of pleasure, for their eyes brightened and their eyelids slightly closed. The smiles arose chiefly when looking at their mother, and were, therefore, probably of mental origin, but this infant often smiled then, and for some time afterwards, from some inward pleasurable feeling, for nothing was happening which could have in any way excited or amused him. When 110 days old, he was exceedingly amused by a pinafore being thrown over his face, and then suddenly withdrawn; and so he was when I suddenly uncovered my own face and approached his. He then uttered a little noise which was an incipient laugh. Here, surprise was the chief cause of the amusement, as is the case to a large extent with the wit of grown-up persons. I believe that for three or four weeks before the time when he was amused by the face

being suddenly uncovered, he received a little pinch on his nose and cheeks as a good joke. I was at first surprised at humor being appreciated by an infant only a little above three months old, but we should remember how very early puppies and kittens begin to play. When four months old, he showed in an unmistakable manner that he liked to hear the piano-forte played; so that here, apparently, was the earliest sign of an æsthetic feeling, unless the attraction of bright colors, which was exhibited much earlier, may be so considered.

Affection. This probably arose very early in life, if we may judge by his smiling at those who had charge of him, when under two months old; though I had no distinct evidence of his distinguishing and recognizing any one, until he was nearly four months old. When nearly five months old, he plainly showed his wish to go to his nurse. But he did not spontaneously exhibit affection by overt acts until a little above a year old, namely, by kissing several times his nurse who had been absent a short time. With respect to the allied feeling of sympathy, this was clearly shown at six months and eleven days by his melancholy face, with the corner of his mouth well depressed, when his nurse pretended to cry. Jealously was plainly exhibited when I fondled a large doll, and when I weighed his infant sister, he being then fifteeen and a half months old. Seeing how strong a feeling jealousy is in dogs, it would probably be exhibited by infants at an earlier age than that just specified, if they were tried in a fitting manner.

Association of Ideas, Reason, etc. The first action which exhibited, as far as I observed, a kind of practical reasoning, has already been noticed, namely, the slipping his hand down my finger so as to get the end of it in his mouth; and this happened on the 114th day. When four and a half months old, he repeatedly smiled at my image and at his own in mirror, and no doubt mistook them for real objects, but he showed sense in being evidently surprised at my voice coming from behind him. Like all infants he much enjoyed thus looking at himself, and in less than two months perfectly understood that it was an image, for if I made quite silently any odd grimace, he would suddenly turn round to look at me. He was, however, puzzled at the age of seven months, when being put out of doors, he saw me on the inside of a large plate-glass window, and seemed to doubt whether or not it was an image. Another of my infants, a little girl, when exactly a year old, was not nearly so acute, and seemed quite perplexed at the image of a person in a mirror approaching her from behind. The higher apes which I tried with a small looking glass, behaved differently; they placed their hands behind the glass, and in doing so showed their sense; but far from taking pleasure in looking at themselves, they got angry and would look no more.

When five months old, associated ideas, arising independently of any instruction, became fixed in his mind; thus, as soon as his hat

and cloak were put on, he was very cross if he was not immediately taken out of doors. When exactly seven months old, he made the great step of associating his nurse with her name, so that if I called it out he would turn round and look for her. Another infant used to amuse himself by shaking his head laterally; we praised and imitated him, saying, "Shake your head;" and when he was seven months old, he would sometimes do so on being told, without any other guide. During the next four months, the former infant associated many things and actions with words; thus, when asked for a kiss, he would protrude his lips and keep still, would shake his head and say in a scolding voice, "ah," to the coal-box, or a little spilt water, etc., which he had been taught to consider as dirty. I may add that, when a few days under nine months old, he associated his own name with his image in the looking-glass, and when called by name would turn towards the glass, even when at some distance from it. When a few days over nine months, he learnt spontaneously that a hand, or other object, causing a shadow to fall on the wall in front of him, was to be looked for behind. Whilst under a year old, it was sufficient to repeat two or three times at intervals any short sentence to fix firmly in his mind some associated idea. In the infant described by M. Taine, the age at which ideas readily became associated, seems to have been considerably later, unless, indeed, the earlier cases were overlooked. The facility with which associated ideas, due to instruction and others, spontaneously arising, were acquired, seemed to me by far the most strongly marked of all the distinctions between the mind of an infant and that of the cleverest full-grown dog that I have ever known. What a contrast does the mind of an infant present to that of a pike, described by Prof. Möbius, who during three whole months, dashed and stunned himself against a glass partition which separated him from some minnows; and, when, after at last learning that he could not attack them with impunity, he was placed in the same aquarium with these same minnows, then in a persistent and senseless manner, he would not attack them.

Curiosity, as M. Taine remarks, is displayed at an early age by infants, and is highly important in the development of their minds; but I made no special observation on this head. Imitation likewise comes in play. When one infant was only four months old, I thought he tried to imitate sounds; but I may have deceived myself, for I was not thoroughly convinced that he did so until he was ten months old. At the age of 11½ months, he could readily imitate all sorts of actions, such as shaking his head and saying "ah," to any dirty object, or by carefully and slowly putting his forefinger in the middle of the palm of the other hand, to the childish rhyme of "pat it, and pat it, and mark it with T." It was amusing to behold his pleased expression after successfully performing any such accomplishment. I do not know whether it

is worth mentioning, as showing something about the strength of memory in a young child, that this one, when three years and twenty-three days old, on being shown an engraving of his grandfather, whom he had not seen for exactly six months, instantly recognized him and mentioned a whole string of events which had occurred whilst visiting him, and which certainly had never been mentioned in the interval.

Moral Sense. The first sign of moral sense was noticed at the age of thirteen months; I said, "Doddy" (his nickname), "won't give poor papa a kiss; naughty Doddy!" These words, without any doubt, made him feel slightly uncomfortable; and, at last, when I had returned to my chair, he protruded his lips as a sign that he was ready to kiss me; and he then shook his head in an angry manner until I came and received his kiss. Nearly the same little scene recurred in a few days, and the reconciliation seemed to give him so much satisfaction, that several times afterwards he pretended to be angry and slapped me, and then insisted on giving me a kiss. So that, here we have a touch of the dramatic art, which is so strongly pronounced in most young children. About this time it became easy to work on his feelings, and make him do whatever was wanted. When two years and three months old, he gave his last bit of gingerbread to his little sister, and then cried out with high self-approbation, "Oh, kind Doddy, kind Doddy." Two months later, he became extremely sensitive to ridicule, and was so suspicious that he often thought people who were laughing and talking together were laughing at him. A little later (two years and seven and a half months old), I met him coming out of the dining-room with his eyes unnaturally bright, and an odd, unnatural or affected manner, so that I went into the room to see who was there, and found he had been taking pounded sugar, which he had been told not to do. As he had never been in any way punished, his odd manner certainly was not due to fear, and I suppose it was pleasurable excitement struggling with conscience. A fortnight afterwards, I met him coming out of the same room, and he was eyeing his pinafore, which was carefully rolled up; and again his manner was so odd that I determined to see what was within his pinafore, notwithstanding that he said there was nothing, and repeatedly commanded me to "go away," and I found it stained with pickle juice; so that here was carefully planned deceit. As this child was educated solely by working on his good feelings, he soon became as truthful, open, and tender as any one could desire.

Unconsciousness, Shyness. No one can have attended to very young children without being struck at the unabashed manner with which they fixedly stare without blinking their eyes at a new face; an old person can look in this manner only at an animal or inanimate object. This, I believe, is the result of young children not thinking in the least about themselves, and therefore not being in

the least shy, though they are sometimes afraid of strangers. I saw the first symptoms of shyness in my child when nearly two years and three months old; this was shown towards myself, after an absence of ten days from home, chiefly by his eyes being slightly averted from mine; but he soon came and sat on my knee and kissed me, and all trace of shyness disappeared.

Means of Communication. The noise of crying or rather of squalling, as no tears are shed for a long time, is of course uttered in an instinctive manner, but serves to show that there is suffering. After a time the sound differs according to the cause, such as hunger or pain. This was noticed when this infant was eleven weeks old, and I believe at an earlier age in another infant. Moreover, he appeared soon to learn to begin to cry voluntarily, or to wrinkle his face in a manner proper to the occasion, so as to show that he wanted something. When 46 days old, he first made little noises without any meaning to please himself, and these soon became varied. An incipient laugh was observed on the 113th day, but much earlier in another infant. At this date I thought, as already remarked, that he began to try to imitate sounds, as he certainly did at a considerably later period. When five months and a half old, he uttered an articulate sound "da," but without any meaning attached to it. When a little over a year old, he used gestures to explain his wishes; to give a simple instance, he picked up a bit of paper and, giving it to me, pointed to the fire, as he had often seen and liked to see paper burnt. At exactly the age of a year, he made a great step of inventing a word for food, namely, *mum*, but what led him to it I did not discover. And now instead of beginning to cry when he was hungry, he used this word in a demonstrative manner or as a verb, implying "Give me food." This word, therefore, corresponds with *ham*, as used by M. Taine's infant at the later age of fourteen months. But he also used *mum* as a substantive of wide signification; thus he called sugar *shu-mum*, and a little later after he had learned the word "black," he called liquorice *black shu-mum*,—black-sugar-food.

I was particularly struck with the fact that when asking for food by the word *mum* he gave to it (I will copy the words written down at the time) "a most strongly marked interrogatory sound at the end." He also gave to "ah," which he chiefly used at first when recognizing any person, or his own image in a mirror, an exclamatory sound, such as we employ when surprised. I remark in my notes that the use of these intonations seemed to have arisen instinctively, and I regret that more observations were not made on this subject. I record, however, in my notes, that at a rather later period, when between 18 and 21 months old, he modulated his voice in refusing peremptorily to do anything by a defiant whine, so as to express "That I won't;" and again his humph of assent expressed "Yes, to be sure." M. Taine also

insists strongly on the highly expressive tones of the sounds made by his infant before she had learnt to speak. The interrogatory sound which my child gave to the word *mum* when asking for food is especially curious; for if any one will use a single word or a short sentence in this manner, he will find that the musical pitch of his voice rises considerably at the close. I did not then see that this fact bears on the view which I have elsewhere maintained that before man used articulate language, he uttered notes in a true musical scale, as does the anthropoid ape Hylobates.

Finally, the wants of an infant are at first made intelligible by instinctive cries, which after a time are modified, in part unconsciously, and in part, as I believe, voluntarily, as a means of communication, by the unconscious expression of the features, by gestures, and in a marked manner by different intonations, lastly by words of a general nature invented by himself, then of a more precise nature imitated from that which he hears; and these latter are acquired at a wonderfully quick rate. An infant understands to a certain extent, and as I believe at a very early period, the meaning or feelings of those who tend him, by the expression of their features. There can hardly be a doubt about this with respect to smiling; and it seemed to me that the infant whose biography I have here given understood a compassionate expression at a little over five months old. When 6 months and 11 days old, he certainly showed sympathy with his nurse on her pretending to cry. When pleased after performing some new accomplishment, being almost a year old, he evidently studied the expression of those around him. It was probably due to differences of expression, and not merely of the form of the features, that certain faces clearly pleased him much more than others, even at so early an age as a little over six months. Before he was a year old, he understood intonations and gestures, as well as several words and short sentences. He understood one word, namely, his nurse's name, exactly five months before he invented his first word *mum;* and this is what might have been expected, as we know that the lower animals easily learn to understand spoken words.

These papers of M. Taine and Mr. Darwin having appeared in *Mind* in 1877, (M. Taine's first came out in the *Revue Philosophique* for January, 1876,) were followed by several contributions of more or less value, one of which we reprint below from *Mind*, January, 1881.

NOTES ON AN INFANT.

The following notes, based on Mr. Darwin's most interesting and accurate report of the unfolding of the senses, emotions, &c., in one of his own children (MIND VII.), are offered as a small contribution to this interesting subject, on which observations, so constantly at hand, ought to be more often carefully made. They concern the writer's infant son, and extend from the moment of birth through a period of nine months.

Sucking.—The first thing the child did when left alone a few minutes after birth, was to suck the blanket in which he was wrapped.

When hungry, he would cram his hands into his mouth with varying precision, and suck them hard. This was observed ever since birth, and seemed to be adopted without hesitation as a means for temporarily appeasing hunger.

At 4 days old he pushed away his mother's breast when satisfied.

The touch of a warm hand did not induce sucking movements.

No practice seemed to be required for directing the hands to the mouth.

Sneezing was always accompanied by violent movements of all the limbs, the thighs being flexed on the abdomen, the forearms bent, and the elbows thrust forward.

The purpose of the flexion of the thighs on the belly was probably partly to relieve the tension of the suddenly contracted abdominal muscles, but the movements of the arms (and partly those of the legs also) probably had for their cause the necessity for relief of what is called a "nervous discharge" of great amplitude, such as a sneeze.

Crying was performed at first without any squaring of the mouth. The sound can be exactly expressed by "ngä" as pronounced in German. This must have been produced by closing the fauces by the contact of the pillars of the fauces and the soft palate, so as to send all the sound through the nose; the vowel sound being then produced by separating the soft palate and pillars of the fauces and allowing the sound to come through the mouth.

The child appeared to cry at first for three reasons: (1) from a feeling of loneliness or fright on awakening from sleep, which was relieved by being taken in the mother's or nurse's arms, or even by a touch: (2) from hunger; (3) from pain. The cries seemed to be all different in character.

Smiling was reported at 5½ weeks, but not certainly observed before the end of the 8th week. It was often accompanied by sucking movements. This shows the association of two pleasurable ideas.

Weeping.—Tears were shed two days before the end of the 14th week.

Seeing.—The eyes were first fixed on a candle when a week old. On the same day, the eyes were fixed on one of the parents for the first time.

Opening of the eyes was accompanied by wrinkling of the skin of the forehead; the wrinkles, being horizontal, were due to the frontalis muscle. They resembled those produced in adults during an effort to open the eyes when tightly closed, either on account of very dazzling light or of a foreign body in the eye; but were probably only necessitated by redundancy of skin, which is very observable in a young child and most young animals. This wrinkling gradually ceased.

The ninth day was the first on which anything like habitual opening of the eyes occurred.

It was not before the 14th day that the child *took notice* of persons or moving objects.

From the time that he began to use his eyes, bright light gave him much pleasure, and he never blinked except on a change from comparative darkness to bright light; when the moment of this change was past, he would gaze for a long time with much apparent delight and with wide-open eyes at a lamp or at the gas, however bright. This fact makes it unlikely that the frowning mentioned above was due to being dazzled. He was first able to see himself in the glass at 8 weeks old, the experiment having been often used before.

Hearing.—During the first week the child would not start at any noise however sudden, when unaccompanied by vibration of the room or bed. For instance, no notice was taken of hands loudly clapped close to his ear; but slamming of a door made him start. Just the same starting was observed immediately after birth when the scale in which he was being weighed went down with a jerk.

It was very difficult to decide when the child really heard first. At 14 days old he would turn his eyes to his mother when she spoke to him, but even then did not start at sudden noises however loud, unless accompanied by jerks or vibrations; so that the apparent power of hearing his mother's voice may have depended on his feeling her breath on his face, for it was only when her face was turned towards him while she spoke that he turned his eyes towards her.

In connection with the late appearance of this sense, we must remember that the tympanum at birth is packed with areolar tissue which only gradually becomes absorbed after birth.

Reflex Actions.—Among these may be noticed the spasmodic start which occurred on any jar or vibration, previously noticed, and also the fact that micturition was always or nearly always indicated by a slight shiver.

The slight provocation necessary for producing a convulsion in children is a well-known sign of their great irritability to nervous stimuli.

Exactly at 4 weeks old the child started at sudden noises if unexpected, but would not start twice at the same noise if not excessively loud.

Taste.—The child rejected all things given to him cold, even milk, but would take various things not especially nice (such as cod liver oil) if warm. The temperature seemed to be of more consequence to him than the taste.

Voluntary Movements.—The arms were far more purposive in their movements than the legs from the very first. The movements of the arms from the first were like those of striking with the fists, the fists, however, being only partially clenched.

Walking.—When one day less than 19 weeks old, the trial was made of supporting the child on the floor with the feet just touching the ground, and moving him forward. The movements of the legs were always alternate and purposive, each step being perfectly formed; though the feet were lifted unnecessarily high, there was no hesitation nor irregularity. Only when he was lifted too high for one or other foot to touch the ground was this alternate movement interrupted, the foot which failed to reach the ground making a fresh step. It was obvious that the contact of one foot with the ground was the stimulus for moving forward the other foot.

Attempts at Talking.—From nine months the child distinctly imitated the intonation of the voice when any word or sentence was repeated in the same way several times.

About the 13th week he began to appear to attempt to join in the conversation with a variety of articulate sounds, if talking was going on in the room.

Fear.—The first symptom of fear was noticed at about 9 months. It was excited by an unusual sound in the room, but not in the child's immediate neighborhood; he opened his eyes very wide and burst out crying. The second occasion was at about 10 months, when sound was again the exciting cause; a toy was given him which squeaked on pressure, he burst out crying, and cried whenever it was offered him, but in a short time he got used to it, became very fond of it, and made it squeak himself.

I have one or two remarks to make on Mr. Darwin's paper. He says: "On the 7th day I touched the naked sole of his foot with a bit of paper and he jerked it away, curling at the same time his toes, like a much older child when tickled." Such reflex movements can be provoked *in utero*, and can be utilized in obstetric operations for distinguishing a hand from a foot, the hand closing on the finger. Kicks can be excited even through the abdominal walls by sudden movements and by direct contact in the way of tickling.

With regard to the words "mum" used by Mr. Darwin's child, and "ham" used by M. Taine's to express food, I would suggest that both were invented subsequently to the use of solid food, for

Mr. Darwin's invented "mum" at twelve months, and M. Taine's invented "ham" at 14 months. Both words seem to be the result of a vowel sound during mastication. Let any one try to eat or move his mouth as in eating, pronouncing at the same time any vowel sound. He will find that each vowel is closed by the letter "m" which is common to "mum" and "ham." "Mum" is the result of "u" with the mouth first shut, then opened, then shut. "Ham" (probably without the "h" aspirated, especially as an aspirated "h" is too much for the recti abdominis muscles of an infant) is the result of an "a" similarly treated.

That "m" is one of the earliest acquired consonants, appears from the word "mama."

I would also suggest that the word "mumble," used of a dog growling while gnawing a bone, is probably onomatopoetic, and to be similarly explained. I do not know the etymology of the Latin word "mando."

F. H. CHAMPNEYS.

A GERMAN CHILD.

OBSERVATIONS BY PROFESSOR PREYER.

[The General Secretary takes occasion to add here some portions of a translation made by Miss MARION TALBOT, of Boston, from Professor William Preyer's work on Mind in Infancy, (*Die Seele des Kindes*) and published in the American bimonthly *Education*, for January, 1882. The speculative parts of the translation are here omitted, and the special observations of Dr. Preyer on his own child are cited, as a continuation and contrast, in some respects, to the other observations on infants cited in this number of the *Journal of Social Science*. Dr. Preyer says:]

But little help in developing the notion of the Ego is gained from the first movements of the hands, which the infant puts in his mouth at an early period, and which must give a different sensation from other objects when he sucks them. The fact that my child for months pulled at his hands as if he would tear them apart, and struck at his head when experimenting with his hands, shows how far removed from self-consciousness these movements are. At the end of the first year my child had a predilection for striking hard objects against his teeth, and took delight in grating his teeth. On the four hundred and ninth day, when he was standing in his crib and holding on to the railing, he bit his bare arm so hard that he instantly screamed with pain. The marks of the teeth

could be seen for a long time afterward. The boy did not bite his arm a second time, but later he bit his finger, and inadvertently his tongue.

The same child, who liked to hold a cracker to the mouth of any one he was kindly disposed towards, offered one to his own foot in the same way, and sitting on the floor, held the cracker to his toes, evidently taking pleasure in doing so. This occurred several times in the twenty-third month.

How little the difference between the parts of the body and external objects is recognized even at the end of the first year, follows from some singular experiments which the child tried quite independently. He sat near me at the table, and struck it frequently and quickly with his hands; first soft, then hard, next hard with the right hand alone, and then suddenly hit his mouth with the same hand. After holding his hand to his mouth for a short time, he struck the table again with it and then suddenly struck his head above the ear. This experiment seemed for the first time to impress the child that it was one thing to strike one's self, one's own hard head, and another to strike a foreign hard object (forty-first week). In the thirteenth month the child still hit his head while experimenting with his hand, and seemed astonished at its hardness. In the sixteenth month he was in the habit of pushing and striking the left thumb against the left side of the head, and the right thumb against the right side, while holding the fingers outstretched, which made him open his eyes and caused a singular expression of wonder. This movement is neither imitated nor inherited, but learned from experience. The child without doubt gains experience in a similar way in regard to holding the head, shaking the head, resistance of the body; perhaps, too, management of the head. The objectivity of the finger became known a short time before, when it was involuntarily bitten; for in the fifteenth month the child bit his finger so hard that he cried with pain. Pain is the most powerful master in learning the difference between subjective and objective.

I particularly observed the way in which the child looked at his body, and also at his reflected image. In relation to the first I made the following notes:

Seventeenth week. In grasping movements, which are still imperfect, the gaze is directed partly towards the object, partly towards the hand, especially if it has once grasped correctly.

Eighteenth week. The very attentive observation of the fingers in grasping is remarkable, and should be daily noticed.

Twenty-third week. When the infant, who frequently moves his hands aimlessly about in the air, by chance grasps one with the other, he watches attentively both hands, which are often casually clasped.

Twenty-fourth week. The child fixes his eyes for several minutes upon a glove which he himself holds in his hands, and changes the fingers which grasp it.

Thirty-second week. The child, while lying on his back, often looks at his legs stretched upright, and more especially at his feet, as if they were something not belonging to him.

Thirty-fifth week. In every possible position the child tries to seize one foot with both hands and put it in his mouth, and frequently succeeds. This apish movement seems to afford him peculiar pleasure.

Thirty-sixth week. The hands and feet are no longer watched so frequently without special cause. His gaze is attracted by other new objects, which he attempts to grasp.

Thirty-ninth week. When in the bath, the child sometimes looks at and touches his skin with evident delight, and sometimes gazes at his legs, which he bends and stretches in every direction.

Fifty-fifth week. The child watches attentively, for a long time, a person who is eating, and follows every movement with his eyes; reaches out towards the person's face, and looks at his own hands after striking his head. He likes to play with other's hands and takes delight in their motions, evidently comparing them with those of his own fingers.

Sixty-second week. He gazes continuously at his own fingers, and plays with them as if he would tear them out. One hand is pressed by the other flat upon the table, so hard as to cause pain, as if it were a strange plaything, and is constantly looked at with an air of wonder.

Thereafter the child's inclination to watch the parts of the body noticeably abated. He knew them by their form, and had gradually learned to distinguish them from extraneous objects as parts of himself; but by no means had he as yet reached the thought, "The hand is mine, what was taken hold of is not," or "The leg belongs to me."

Darwin observed (1840) of one of his sons, that in the fifth month he repeatedly laughed at the reflections of his father and himself in the glass, and thought them real bodies. But he was surprised that his father's voice came from behind.

I made the following observations of my boy:—

In the eleventh week he did not see himself in the mirror. When I knocked against the glass he turned his head in the direction of the sound, but his image did not make the slightest impression upon him.

In the fourteenth and fifteenth weeks he looked at his image with perfect indifference. His glance was directed towards the eyes in the image, without any expression of pleasure or displeasure.

In the sixteenth week the mirror was still either ignored or regarded with indifference.

At the beginning of the seventeenth week, on the one hundred and thirteenth day, the child looked at his image with unmistakable attention, and his countenance wore the same expression with which he was in the habit of gazing at the face of a stranger. It

was evident that he observed himself for the first time, but the impression seemed to awaken neither pleasure nor displeasure. Three days later the child positively laughed at his image.

When I held the child before the mirror again in the twenty-fourth week, he saw my image, became very attentive, and turned suddenly to me, apparently to convince himself that I was near him.

In the twenty-fifth week he for the first time stretched his hand towards the image, thinking he could grasp it.

In the twenty-sixth week it pleased the child to see me in the glass; he turned towards me and compared the original with the image.

In the thirty-fifth week the child reached out towards the image with eagerness and interest, and was astonished when his hand touched the hard, smooth surface.

This continued from the forty-first to the forty-fourth week; the child regularly laughed at his image and tried to seize it.

All these observations were made before a full-length mirror. But in the fifty-seventh week I held a hand-glass close to the child's face. He looked at his image and then put his hand behind the glass, moving it about as if in search of something. He next took the glass himself, looked at it, and touched it on both sides. When I held the glass before him again after several minutes, the same manœuvres were repeated. This agreed with the observations made by Darwin on anthropoid monkeys, which I have mentioned.

In the fifty-eighth week I showed the child his cabinet photograph under glass in a frame. He turned the picture about like the hand-glass. Although the photograph was much smaller than the reflected image, they seemed to him to be alike. On the same (four hundred and second) day, I again held a hand-glass before the boy, showing him his image; but he obstinately turned away, again like an intelligent animal. Here the incomprehensible in a literal sense was troubling him; but very soon came the insight which the quadruped lacks. In the sixtieth week the child saw his mother in the glass, and when asked, "Where is mamma?" pointed to the image, and then turned laughing to his mother. Whereas the child formerly made cunning mistakes, there is no doubt but that at this age—fourteen months—the original and the image were distinguished as such, and the photograph no longer excited surprise.

Nevertheless, even in the sixty-first week the child tried to touch his image, and licked the glass in which he saw himself, and also in the sixty-sixth week struck it with his hand. In the following week I sw the child making faces for the first time before the glass, and laughing at it. I stood behind him and called him by name. He immediately turned round, although he saw me plainly in the glass. He evidently knew that the voice did not come from the image.

In the sixty-ninth week signs of vanity were perceived; the child frequently took pleasure in watching himself in the glass. If any one placed something on his head and said "pretty," his expression changed and became peculiarly self-satisfied, his eyebrows were lifted and his eyes were dilated.

In the twenty-first month, the child put on a piece of lace or embroidery, let it hang from his shoulders, looked around as it trailed, stepped forward, and then stood still, intent on making new folds in it. Here monkeyish imitation and vanity are mingled.

In the seventeenth month, the child showed a predilection for standing before the glass and making grimaces; these experiments with the mirror were, therefore, discontinued. They point out the transition from the condition in which the infant cannot see clearly, and has no feeling of self, to that of the developed Ego, which consciously distinguishes itself from its own image, as well as from other people and their images. But there is for a long time a certain cloudiness in respect to pointing out objects. In the twenty-first month the child laughed at his image and pointed to it when I asked, "Where is Axel?" and to my image when asked, "Where is papa?" But when questioned seriously, the child turned about with a doubtful air. One evening I placed a large mirror near my child's bed when he was asleep, in such a position that he should look in it immediately on awaking. He saw his image directly after he awoke; appeared greatly astonished by it; stared at it; and when I asked, "Where is Axel?" he pointed, not to himself, but to his image (six hundred and twentieth day). In the thirty-first month it still gave him great pleasure to watch his image, and he laughed at it continuously and heartily.

As is well known, animals conduct themselves quite differently in this respect. A pair of Turkish ducks kept themselves quite apart from other ducks. When the female died, to my astonishment, the drake betook himself to a cellar window in which could be seen his reflection, and stood there daily for hours at a time. He evidently thought his image was his lost companion. A young cat before whom I held a mirror, seemed to take the image for a second cat; for when the mirror was raised, she went behind and around it. Many animals are frightened by their images, and run away.

The discovery of their shadow also causes fear to little children. At first my child showed signs of fear at his shadow, but in the fourth year, took delight in it, and to the question, "Where does the shadow come from?" gave this remarkable answer, "From the sun."

CIRCULAR OF APRIL, 1881.

We have been made familiar with the habits of plants and animals from the careful investigations which have from time to time been published, — the intelligence of animals, even, coming in for a due share of attention. One author alone contributes a book of a thousand pages upon "Mind in the Lower Animals." Recently some educators in this country have been thinking that to study the natural development of a single child is worth more than a Noah's Ark full of animals. Little has been done in this study, at least little has been recorded. It is certain that a great many mothers might contribute observations of their own child's life and development, which would at some future time be invaluable to the psychologist. In this belief the Education Department of the American Social Science Association has issued the accompanying Register, and asks the parents of very young children to interest themselves in the subject, —

1. By recognizing the importance of the study of the youngest infants.

2. By observing the simplest manifestations of their life and movements.

3. By answering fully and carefully the questions asked in the Register.

4. By a careful record of the signs of development during the coming year, each observation to be verified, if possible, by other members of the family.

5. By interesting their friends in the subject and forwarding the results to the Secretary.

6. Above all, by *perseverance* and exactness in recording these observations.

From the records of many thousand observers in the next few years it is believed that important facts will be gathered of great value to the educator and to the psychologist. A letter from Prof. Preyer, of Jena, Prussia, on the literature of the subject, may be found in No. XIII. of the *Journal of Social Science*, published by A. Williams & Co., Boston; while the English quarterly *Mind* has been printing for four or five years past contributions, the more important of which are reprinted in No. XV. of the *Journal of Social Science.*

CIRCULAR OF JANUARY, 1882.

The Education Department of the American Social Science Association, early in 1881, issued the accompanying Register, with an explanatory Circular. The same Department Committee would now call the attention of parents to the second issue of the Register of Observations on the development of infants, and beg their continued interest. In pursuing the study of this subject the Committee hope to attain several results:

1. True records of the order of development, and facts illustrating it.

2. More thoughtful attention, by both parents, to the idiosyncracies in dispositions, and to the needs of each child.

3. The discussion of unsettled questions, such as the inheritance of traits, the development of speech, intelligent consciousness, the influence of food, race, climate, etc.

4. Assistance to parents in the formation of more intelligent and systematic plans of education.

In reply to the query why these questions are asked, and certain others are not, it is proper to say that the form in which the Register is presented only suggests lines of study open to parents. It is hoped that sufficient curiosity and interest will be excited in the subject to tempt divergence from the method here presented. Each observer is therefore invited to broaden the field of observation by suggestions and by original research, and to report the results of investigation to this Committee.

The monographs of Darwin and Taine on this subject are reprinted, as a guide to the manner of proceeding with the work of observation.

Will the observer have the kindness to carefully answer as many as possible of these questions and return this circular before July 15th, 1882, to

MRS. EMILY TALBOT,

Secretary of the Education Department of the American Social Science Association,

66 MARLBOROUGH STREET, BOSTON, MASS.

BOSTON, January 1, 1882.

Register of Physical and Mental Development of

(Give the Baby's full name).....

Name and occupation of the father?.....

Place and time of father's birth?.....

" " mother's " ?.....

" " baby's " ?.....

Is it a first, second or third child?.....

Baby's weight at birth?.....at 3 months?.....at 6 months?.....at 1 year?.....

How fed?.....

Is the baby strong and healthy, or otherwise?.....

At what age did the baby exhibit consciousness, and in what manner?.....

At what age did the baby smile?.....

" " " recognize its mother?.....

" " " notice its hand?.....

" " " follow a light with its eyes?.....

" " " hold up its head?.....

" " " sit alone on the floor?.....

" " " creep?.....

" " " stand by a chair?.....

" " " stand alone?.....

" " " walk alone?.....

" " " hold a plaything when put in its hand?

.....

At what age did the baby reach out and take a plaything?.....

" " " appear to be right or left handed?.....

" " " notice pain, as the prick of a pin?.....

" " " show a like or dislike in taste?.....

" " " appear sensible to sound?.....

" " " notice the light of a window or turn towards it?.....

" " " fear the heat from stove or grate?.....

" " " speak, and what did it say?.....

How many words could it say at 1 year?.....at 18 months?.....at 2 years?.....

(Please observe and report the order of the Parts of Speech.)

Are these observations made from memory?.....from a diary?.....or from week to week?.....

Observers are referred to the following publications among others:

Psychogenesis by Dr. W. Preyer. (In Journal of Speculative Philosophy, April, 1881. New York: D. Appleton & Co.)

Education, Jan. 1882. New England Publishing Co.

Die Sprache des Kindes, by Fritz Schultze. Leipzic: E. Günther.

Observations et reflections sur le developpement de l' intelligence et du language chez les enfants, by M. E. Egger. 3d Edition. Paris: A. Picard.

Die Seele des Kindes, by Dr. W. Preyer. Leipsig: Th. Grieberis Verlag.

Les trois premières annees de l'enfant, L'Education dès le Berceau, by Bernard Perez. Paris: Germer Baillière et Cie.

II. REPORT OF THE DEPARTMENT OF EDUCATION FOR THE YEAR 1880–1.

By Mrs. Emily Talbot, *Secretary of the Department.*

Read September 6, 1881.

The Education Department of the American Social Science Association presents for your consideration a group of Papers, the discussion of which it is hoped will prove to be useful. It has been the aim of this Department to bring to your attention those topics which seem, to leading instructors, of vital importance to the best development of the educational interests of the country. The impression made upon society has been evident, and it is believed to have been salutary.

It is but two years since the Rev. Professor Peabody, of Harvard College, was invited to read a Paper before this Association upon School Suffrage for Women, in which occasion was taken to urge the importance of giving woman her full influence, authority, and power in the management of schools, and in the choice of their functionaries. Since that time, of the two millions of women in the State of New York alone, all those qualified by age and education have had this privilege of school suffrage conferred upon them.

This Department has directed attention, year by year, to the interests of Public Libraries and their relations to the public schools; and town after town, and State after State have become interested to discover their duties and obligations in this matter. The discussion is still going on. The same is true of the prominence which has here been given to the importance of the Newspaper as an educator: and your Committee believe that their suggestions have been the occasion of many timely articles on the subject in the public press of many parts of the country.

The immense service to the higher education of the United States, which would result from an annual national conference of university and college presidents, was suggested by this Department, some years since, in these words: "That such conferences would secure a united and healthy growth in those educational methods which are regarded as essential to success in all countries; while entrance examinations, courses of study, electives, degrees, discipline, and other matters of mutual interest, might be so adjusted as to save

perplexity to the parents, and to the teachers of the fitting schools,—and what is also of great importance, *time* to the students." It is well known that local conferences, on specific subjects, have been held from time to time, notably in the State of Ohio, and more recently by the most prominent colleges of New England. The good which has already resulted to limited sections of the country from this interchange of opinions, is indicative of the great benefits which might be expected, when by delegates, in council, every college in the land shall be represented in such a Conference. No body of men could come together whose proceedings would be watched with deeper interest, or who could command so powerful an influence, both on the present and future welfare of this country.

The abolishment of sex disabilities in education, which the Association has advocated from its foundation, has steadily gained ground. To say that more than one-half of the institutions which possess the right to confer degrees, and do so, without respect to sex, are in the States of the West, no longer disposes of the subject. Russia, Italy, India, and Spain have, one by one, removed obstructions to the higher education of women. Latterly the conferring of degrees by London University has been followed by such a recognition of women students at Cambridge, Oxford, and Glasgow, as to foreshadow but one result; while the Senate of the University of Durham has passed a resolution permitting women, who shall have fulfilled the requirements of the institution respecting residence and standing, to take the public examinations and the first degree in arts. The queen of England has ordered "that the degrees of bachelor and master of arts, and bachelor and doctor of medicine, of laws, of science, and of music, conferred by the University of Adelaide, South Australia, on any person, male or female, shall be recognized as academic distinctions and rewards of merit, and be entitled to rank, precedence and consideration throughout the British possessions." Thus the English are rapidly surpassing the self-satisfied Americans in the university advantages offered to women.

These are a few of the topics on which this Department has struck the key-note for progress in the past. In the present no subject (relating to education) is so important to the whole country as the magnificent plan designed by Congress for the national support of both literary and industrial education. The President of Boston University, in the Year Book of 1881, speaks of the

opening section of the Educational Bill, passed by the United States Senate last winter, as "an evangel of blessing to unborn millions;" the provisions for the distribution of funds, "such as should commend themselves to patriots of every section and party," and the giving to women equivalent advantages with men, "wise and just and statesmanlike." This Association and the educational public have here a duty, to appreciate and sustain the work attempted by Congress, and by every means in their power help to carry it forward to success.

NOTE.—The Papers presented by Mrs. Talbot at Saratoga, besides those on Infant Development as printed on pages 1–52, and Prof. Hall's Paper on pages 56–76, were those by General Eaton of the U. S. Bureau of Education, Dr. Gallaudet on Deaf-Mute Education, and by Prof. A. G. Bell on Articulation in the Instruction of the Deaf. None of these three papers have come to hand for printing here, and they are therefore omitted.

III. THE MORAL AND RELIGIOUS TRAINING OF CHILDREN.

(A Paper read at the General Meeting of the American Social Science Association (Department of Education,) September 6, 1881.)

BY PROF. G. STANLEY HALL.

The policy which the German states have long pursued with more or less constancy was first forcibly indicated by Luther, who declared that he who did not send his child to school must be regarded as an enemy of the state. A strong and almost universal public sentiment, backed by compulsory laws with cumulative penalties, and rigidly enforced, now gives the greatest practical efficacy to the principle that all citizens must send their children to school as well as, and for the same reasons, that they must pay taxes or fight in time of war; viz., *pro bono publico*. In his famous addresses to the German nation Fitche urged, near the beginning of the century, that if Germany was ever to rise from the low estate to which she had then fallen, it must be by becoming, as Nature and Providence seemed to him to have decreed to her, pre-eminently and exclusively an educational state. It was her peculiar mission, he believed, to develop educational institutions, which should surpass and give pattern to those of all the rest of the world, and to allow the German instinct for unity to be moulded into the form of real nationality by these. Something like this has become the method of imperialism there. Perhaps it is hardly too much to say that educational laws, methods, and establishments are the very best products of civilization in Germany. The lessons of history, past and contemporary, are brought to bear by scholars and specialists of European fame upon every new measure proposed in Diet or Reichstag; and the ministry of education is, to say the least, second to no department in the German cabinet. The general result is that, while no modern state has had greater obstacles to overcome, such as provincialism, the worst of military-strategic situations, poverty, an aggravated and ever-recurring religious question, etc., the German state today is very strong not only in material, but also in the ideal elements of national strength. More than any other government she has known how to adopt the best features of both the Roman and the Greek states, and in several of its more unobjectionable aspects she has even actualized the Platonic Republic, in which

the chief care of the law-giver was the education of the young. Her methods and aims in this direction are now, especially since the Franco-Prussian war, slowly gaining force in the school legislation of most countries of continental Europe, as well as in our own.

But if popular education is now assumed as a condition of existence for monarchies, it is obviously far more essential to the stability and permanence of a republic, governed by nearer the average intelligence, and where schools have most to do in determining the level of that average, and with practically no educational qualification for citizenship. If, in view of this, any one will take the trouble to look over the statistics of illiteracy in our own country, or to examine, if only cursorily, the present educational condition of the Southern States and its obvious and undisputed effects upon the tone of public life, or to read up some representative chapter of the recent history of our educational legislation, and to observe how much of it is distorted and perverted by jobbery or partisan interests, compromises, etc., and how much more of it is the work of the ambition of incompetent third-rate legislators, he will, perhaps, begin to realize more plainly than ever before in how real and literal a sense the life of our republic is a struggle for existence against ignorance and the evils which troop in its train, and to see how it is that the question, whether a republican form of government can be permanent, is at bottom a question of education. There is ample evidence that the founders of our institutions realized more clearly than we do that "a republic demands for its continued existence a higher standard of both knowledge and virtue among the people than any other form of government," that school laws are the most fundamental department of legislation in a republic, and that the peculiar political problems liable to a republic can be finally solved not by the legislation of majorities, but gradually and by no other means than by education. Indeed, our patriotism is not so much love of past history or confidence in present institutions as it is belief that human nature is at bottom good, and trust in the beneficent, regulative power of knowledge.

The notion of freedom as quite commonly interpreted is strictly anti-pedagogic. John Stuart Mill is wrong. The *laissez faire*, *laissez aller* principle is suicidal in a republic,—impressive as is the casuistry with which it is so often defended. There must be des-

potism here if need be. There will always be many who will have to be forced to go to school, coaxed, hired, threatened, flogged, trepanned almost, to learn when they are there, and constantly watched and withheld from every evasion or way of escape. Some can respond to no motives but love, praise, and reward, and would be spoiled by coercion, while others, in whom these main-springs of action do not exist and cannot be developed, respond readily and naturally only to a rod of the liberal dimensions prescribed by German school laws. Moral freedom is attained only in so far as the highest motives are spontaneously and autonomously acted upon, and as lower selfish motives are disregarded. This real freedom is the end of education, and if it be assumed at the beginning, education is impossible.

There are now abundant indications that we are again beginning to realize that the three R's, or indeed intellectual training alone, are not all that is meant by education, as is so often implied by current educational rhetoric. When we speak of loving knowledge for its own sake, we mean for the sake of its effect on our characters, as distinguished from all material advantages which may result from it. Strictly speaking, love of knowledge for its own sake is a psychological impossibility. It cannot exist without affecting conduct and character, and its value is measured by the way and the degree in which it does so. That knowledge can have any intrinsic value in and of itself alone is, indeed, the superstition of rationalism and *éclaircissement*, and is no less misleading than is the merely commercial view of it. Like light, knowledge, it is well said, is good to see by rather than to see. Without exerting or ripening into ethical potency, knowledge is not power but weakness, and is nearly as likely to arm the bad as the good elements of the soul and of society. German educators at least have little respect for the Platonic scruple whether virtue can be taught, and so call their department *pedagogy* (which even Hegel defined as pre-eminently the art of making men moral), despite the unpleasant associations which the word calls up, because the term includes moral discipline in addition to mere didactics. They assume that "life without knowledge is better than knowledge which does not affect life," and that "all which frees the mind is disastrous if it does not at the same time give self-control and make us better." In a republic, then, in a peculiar sense, I conclude, moral, at the very least as much as intellectual training, is the obligation which the schools owe to the state and even to society.

To realize how great and peculiar is the need of moral training in this country, we need simply to reflect that nowhere are children emancipated from the control of parents at so early an age, that nowhere is individual liberty respected, or self-control and spontaneity addressed, so precociously. The American child, too, comes into incessant contact with children of all social grades and nationalities, and is more liable to the contagion of vice. It should also not be forgotten that frauds in business and politics make public life, in which scarcely any great event has of late been accomplished without scandal, a school of immorality for the young. Private character is subjected to unusual strains in many ways, including all those peculiar to a period of transition in matters of faith; and the administration of justice, in which republics so easily and fatally fail, is already in many portions of our land, to say the least, exceedingly imperfect. It is not pleasant to dwell upon pictures like these, nor is it pessimistic; but it is simply unpatriotic to refuse to recognize tendencies which strike competent foreign students of our institutions so forcibly, and against which the influences of education should be mainly directed.

In most European systems, moral is intimately bound up with religious training; the moral code is derived from scriptures, much as it is by very many teachers of religion in our own country. Here, too, moral training has in the past been left mainly to the church, the strong line of partition between which and the state is perhaps the most original and cherished solution of the religious question in history.

Salutary and important as this principle has proved, it hardly need be said that it must not be too rigorously insisted upon. If each sharp-scented sectary, in this land of sects, had been allowed to go through all the school-books and sift out all that seemed objectionable to him; if the Jew were permitted to eliminate all that was distasteful to him in the history of primitive christianity, and the Catholic to weed out the story of the Reformation and evolutionary text-books, and if Quakers, atheists, Methodists, and all the rest could challenge what their respective consciences found offensive, what sort of a curriculum would be left in history, literature, or the arts? Yet, although the separation between school and church can never be absolute, because the human soul cannot be cleft in two, the method has such practical advantages, and is so congenial an expression of the instinct of religious tolera-

tion, that it is quite commonly assumed that the State has no right whatever to inquire into the efficiency of the ethico-religious methods of training adopted by the Church,—still less to interfere with them, whatever their character, or however great the public need.

The difficulty of coming into close quarters with our theme, is vastly augmented by the fact that the literature upon the subject is so voluminous that most of it represents the views of single individuals, denominations, or confessions, and that no serious or competent attempt has been made, at least in the English language, to give comprehensive, practical, organic form to the insights that must be sought from so many widely differing sources. Some one has conjectured that if all the volumes now in existence which are expressly devoted to moral and religious training were piled together, a structure as large as the tower of Babel might be reared of them alone; and adds that if they could all speak, a confusion of tongues surpassing the "Babel-babble" would be heard. Not only Catholics, Jews, and sceptics, but all Protestant sects have contributed to this confusion, until many have drawn hence additional reason for complacency in things as they are, and until,—although we are just beginning to seek a course in practical mechanics for public schools so generic that no special industry shall be favored above another, and of utility for all children like the three R's,—the very possibility of such a course in religion and morals as shall be impartial to all the sects, but helpful to each of them, is doubted or even denied. Scarcely a decade ago, most of us would have perhorresced the idea that there could be a seven years' course of Bible study adopted in common by most of the Protestant sects. But it is plain that the consensus respecting right and wrong conduct is still wider. Much moral truth is taught in common by Jews, Catholics, and Protestants, by unpedagogic methods, which would be greatly improved if the same common matter were to be admitted by the consent of all into the public schools. The deeper and broader the religious life, or consciousness, experience, insight,—the larger does this common element become. Indeed, the existence and need of common elements, which no one can doubt, which must be held by all, always and everywhere, which men must believe as men, has been postulated often enough by Protestant thinkers, and underlies the very idea of Catholicity, and, in fine, of religion itself. The very

idea of Bible is consensus. It assumes the same needs, instincts, possibilities, talents, and predispositions in all for receiving the deliverances of the highest of all Muses, the Holy Spirit.

So far as the psycho-pedagogic or practical character is concerned, and rigorously *excluding every other aspect of it*,—religion is most fundamentally characterized as the popular culture of the highest ideal, as opposed to material utility, which dominates so many of our intellectual interests, by reconformity of life to it. It may be formulated as unity with nature, as the readjustment of conduct to conscience, as restored harmony with self, reunion with God, newly awakened love for Jesus, fresh insight into his mind as new impulse to do his will. The common element is obvious. There has been a loss of the primitive relation or aptitude to the highest or ideal norm, and man struggles back, not without pain and great effort, to restore the lost relationship. In a word, there must be atonement, with implication of previous estrangement. When this process is conceived as intellectual, faith or intuition are said to close in with certain doctrines considered as normative and central; as emotional the heart is reconciled and loves a divine person; and as volitional, God's will is done. How man came to deviate from the ideal; the cause and extent of the alienation; how the ideal is to be conceived,—whether subjectively as conscience or a higher instinct always pointing toward the undiscovered pole of human destiny, or objectively as an offended Deity who must be placated by religious observances,—or as the incarnate *logos;* how the reconciliation takes place,—whether the divine ideal inclines to us or we to it first, most, or on what occasion and motive, and in the face of what difficulties and with what kind of mediation, if any; and possibly even whether the whole process be literally real and actual, and accomplished in one time and place for all times and places, or an expression for the whole course of individual life and human history; or, finally, as a sort of formulation which some universal sentiment, like, e.g., that of absolute dependence, gives itself naturally in all ripely developed lives; or indeed, all these at once, the results here and hereafter,—these questions, important as they have become, must be subordinated as different explanations of the one great law under which morality itself as well as religion is included. The difference between the lowest, most undeveloped, or natural religion, and its highest form of revealed Christianity is so vast, and so justly

emphasized by the Church, because it is so essentially pedagogic and practical; or because it makes what the individual is too limited to more than vaguely anticipate, so articulate, apprehensible, and available as a stimulus and guide to right conduct. It is not mere subjectivism, as Palmer charges in his "Evangelischen Pädagogik," to say that there must be a natural instinct in man coinciding more or less exactly with all that revelation gives, because but for this the latter would be unapprehensible and worthless. Indeed, it is because this fundamental native instinct, often described as longing, craving, homesickness for the good and true,—is undeveloped, that religion is so often conceived as the irruption of a foreign principle, a graft from a new stock. It is a psychological impossibility to teach anything as purely authoritative. If religion can be taught or revealed, it must already be performed in us by nature, though it may be but dimly. The teacher, then, must ever regard and inculcate religion, as in a sense a growth or development; and in such a way that this natural predisposition be neither neglected, repressed, nor distorted. The pupil should, and in fact, naturally does, repeat the course of the development of the race; and education, is simply the expediting and shortening of this course. This latter is mainly accomplished in religious training by avoiding the countless and tedious deviations, superstitions, and errors which make up so large a part of the history of religion. In a word, religion is the most generic kind of culture as opposed to all systems or departments which are one-sided. All education culminates in it because it is the chief among human interests, and because it gives inner unity to the mind, heart, and will.*

It only remains to be said that this common element of union, alienation from and reunion with God, is first and most profound both logically and psychologically. The points of difference between sects, and perhaps to some extent between the ethnic religions, have their justification in natural differences of race, temperament, culture, and associative connections of thought and feeling generally which are not developed in childhood. All

*Cf., on this paragraph, Diesterweg, "Wegweiser zur Bildung für Deutsche Lehrer." 5te Auflage, 1875. Bd. II. s. 3, *et seq.*
Th. Waitz, "Allgemeine Pädagogik." 2te Auflage, 1875. Bd. II. s. 279–95.
Fr. Dittes, "Schule der Pädagogik." 1875. S. 432–53.
Ostermann, "Pädagogische Psychologie" (on Lotze's basis). 1880. S. 60, *et seq.*
Ziller, "Allgemeine Pädagogik." 1876. S. 153, *et seq.*
Schrader, "Erziehungs-u. Unterrichts-lehre," p. 306, *et seq.*—*et al.*

differences of this sort should have a very subordinate place or none at all in the religious training of the young. For a child to know more about matters that are peculiar to the sects, or even to Protestantism as opposed to Catholicism, than about the practical notions of religion itself, would be as absurd pedagogically as for a medical student to learn the fine points of difference between the nativistic and empirical theories of physiological optics before the fundamental structure of the eye was understood. We are now ready to inquire how this common element should be taught.

To be really effective and lasting, moral and religious training must begin in the cradle. It was a profound remark of Fröbel,—who, although he could study only borrowed babies because he had none of his own, has really seen further into the infant soul than Darwin, Taine, Preyer, Kussmaul, or Romanes in their baby-studies,—that *the unconsciousness of a child is rest in God.* This need not be understood in any pantheistic sense. From this rest in God the childish soul should not be abruptly or prematurely aroused. A generic germinal-physical sensation, before the special senses develop their functions; a vacuous envisagement of pure being, a feeling of transcendent happiness or even angelic communion, gradually lapsing into the particular experiences of life; have all been conjectured, and may, for aught we can *prove* to the contrary, all exist in the infant soul; down and back into which scientific observation has scarcely more than just begun its explorations. Even the primeval stages of psychic growth, or objectivization, are rarely so all-sided, so purely unsolicited, spontaneous, and unprecocious, as not to be in a sense a fall from Fröbel's unconsciousness or rest in God. The sense of touch, the mother of all the other senses, is the only one which the child brings into the world already experienced; but by the pats, caresses, hugs, etc., so instinctive with young mothers, varied feelings and sentiments are communicated to the child long before it recognizes its own body as distinct from things about it. The mother's face and voice are the first conscious objects as the infant soul unfolds, and she soon comes to stand in the very place of God to her child. All the religion of which the child is capable during this by no means brief stage of its development consists of those sentiments — gratitude, trust, dependence, love, etc. — now felt only for her, which are later directed toward God. The less these are now cultivated toward the mother, who is now their only fit-

ting if not their only possible object, the more feebly they will later be felt toward God. This, too, adds greatly to the sacredness and the responsibilities of motherhood. I believe with Fröbel that thus fundamental religious sentiments can be cultivated in the earliest months of infancy, although I cannot see all the efficacy his followers claim for the means to this culture, developed in his "mother and cosseting songs." It is of course impossible not to seem, perhaps even not to be, sentimental upon this theme; for the infant soul has no other content than sentiments, and because upon these rests the whole superstructure of religion in child or adult. The mother's emotions, and physical and mental states, indeed, are imparted and reproduced in the infant so immediately, unconsciously, and through so many avenues, that it is no wonder that women are more disposed than men to believe in occult and perhaps supernatural influences or *rapports* connecting the souls of distinct individuals. Whether the mother is habitually under the influence of calm and tranquil emotions, or her temper is fluctuating or violent, or her movements are habitually energetic or soft and caressing, or she be regular or irregular in her ministrations to the infant in her arms,—all these characteristics and habits are registered in the primeval language of touch upon the nervous system of the child, as surely as the planchette responds to the influences of unconscious cerebration. At no period of life is it truer, in a broader sense, that she does most for her child who does most for herself. All that affects her affects it. From this point of view, poise and calmness, the absence of all intense stimuli and of sensations or transitions which are abrupt or sudden, and an atmosphere of quieting influences, like everything which retards by broadening, is in the general line of religious culture. Fröbel well compared the soul of an infant to a seed planted in a garden. It was not pressed or moved by the breezes which rustled the leaves overhead. The sunlight did not fall upon it, and even dew and evening coolness scarcely reached it; but yet there was not a breath of air, nor a ray of sunshine, nor a drop of moisture to which it was unresponsive, and which did not stir all its germinant forces. The child is a plant, must live out of doors in proper season, and there must be no forcing. Religion, then, at this important stage, at least, is naturalism pure and simple and nothing more; and religious training is the supreme part of standing out of nature's way. So implicit is the unity of soul

and body at this formative age that care of the body is the most effective ethico-religious culture.

This is not the place to enter into details respecting the psychic growth of children, but it should be specified that, however successfully it may be delayed, the time must come when the child will know its own limbs, then its own body as a whole, as distinct from other objects, and when its narrow circle of remembered and associated impressions rounds off into a rudimentary personality. Fichte thought this stage epochal, and celebrated it by a banquet, when his child first used the pronoun I. Fröbel thought this independence could be cultivated earlier by the little game of bo-peep on the mother's lap, by holding the child erect at arm's length from its mother, etc. As the infant thus learns to distinguish between what it does to or for itself and what others do for it, it becomes capable of commanding and obeying, of helping itself, and of feeling the natural consequences of its own acts. Its cerebral centres are rapidly taking shape and acquiring firmness of texture, and it should be most carefully thrown on its own resources so far as they are fully developed, *but no farther*. Before the child can speak, the mother is called upon to distinguish between the sounds which spring from helplessness and dependence, and real needs which should be cultivated on the principle of broadening by retarding, and those which spring from the moods and whims of an embryonic personality, which may be dwarfed or perverted if allowed to functionate too early, as surely as its legs may become bandied by trying to walk prematurely. It is because as babies grow few and rare, and as mothers tend to become more fond than wise, that this tender but important cradle-battle so often goes against the latter, and children are spoiled, mothers enslaved, and, instead of pleasures which are few, mild, and uniform, special, unusual, and intense enjoyments which bring reactions are permitted, and artificial systems of rewards and punishments are resorted to; while the mother gradually loses her influence over the child before the dawn of that adolescent age in which maternal influences and home-ties should be at their strongest and best. The great lesson of this protracted stage of development is the limitation of the absolute selfishness of infant nature, and the recognition of and entire subordination to the rights of others, upon whom it must be made to feel its almost absolute dependence. No sharp or rude constraints should interfere with the expansion of

its sympathies and affections to others, and no indulgences should obviate the lesson of quiet submission to the authority and even convenience of adult wisdom above its own. The child has few rights other than the satisfaction of its physical needs, for it can perform few duties.

Next to be considered are the sentiments which unfold under the influence of that fresh and naïve curiosity which attends the first impressions of natural objects, from which both religion and science spring as from one common root. The awe and sublimity of a thunder-storm, the sights and sounds of a spring morning, objects which lead the child's thoughts to what is remote in time and space, old trees, ruins, the rocks, and, above all, the heavenly bodies,—the utilization of these lessons is the most important task of the religious teacher during the *kindergarten* stage of childhood. Still more than the undevout astronomer, the undevout child under such influences is abnormal. In these directions the mind of the child is as open and plastic as that of the ancient prophet to the promptings of the inspiring Spirit. The child can recognize no essential difference between nature and the supernatural, and the products of mythopœic fancy which have been spun about natural objects, and which have lain so long and so warm about the hearts of generations and races of men, are now the best of all nutriments for the soul. To teach scientific rudiments only about nature, on the shallow principle that nothing should be taught which must be unlearned, or to encourage the child to assume the critical attitude of mind, is dwarfing the heart and prematurely forcing the head. To indulge in goody talks, or to moralize about God or heaven, is here impertinent and stultifying. The one course paralyzes the healthiest and strongest sentiments, the other cultivates sentimentality and the affectation of impossible insights, or else makes these subjects uninteresting or positively distasteful later, when the mind is ripe for them. It has been said that country life is religion for children at this stage. However this may be, it is clear that natural religion is rooted in such experiences, and precedes revealed religion in the order of growth and education, whatever its logical order in systems of thought may be. A little later, habits of truthfulness are best cultivated by the use of the senses in exact observation. To see a simple phenomenon in nature and report it fully and correctly is no easy matter, but the habit of trying to do so teaches what truthfulness is, and leaves

the impress of truth upon the whole life and character. I do not hesitate to say, therefore, that elements of science should be taught to children for the moral effect of its influences. At the same time all truth is not sensuous, and this training alone tends to make the mind pragmatic, dry, and insensitive or unresponsive to that other kind of truth, the value of which is not measured by its certainty so much as by its effect upon us. Renan has remarked in substance that all higher truth consists in *nuances*, which play over that realm of conscience and the humanities where open questions will always excite hope and fear. We must learn to interpret the heart and our native instincts as truthfully as we do external nature; for our happiness in life depends quite as largely upon bringing our beliefs into harmony with the deeper feelings of our nature, as it does upon the ability to adapt ourselves to our physical environment. Thus not only all religious beliefs and moral acts will strengthen if they truly express the character, instead of cultivating affectation and insincerity in opinion, word, and deed, as with mistaken pedagogic methods they so commonly do. This latter can be avoided only by leaving all to naturalism and spontaneity at first, and feeding the soul only according to its appetites and stage of growth. No religious truth must be taught as fundamental—especially as fundamental to morality—which can be seriously doubted or even misunderstood. Yet it must be expected that convictions will be transformed, and worked over and over again, and only late, if at all, will an equilibrium between the heart and the truth it clings to as finally satisfying be attained. Hence most positive instruction in Christian truth should be delayed at the very least to the first school year. Many things must come of course incidentally. These should be taught only when demanded and in the briefest possible way, and with the feeling impressed upon the child that these are most serious things, but too high for it yet. This will stimulate curiosity for them later. Up to this age, at the very least, the child should not be *encouraged* in church-going or public piety of any sort. If permitted at all it should be only as a reward, but is dangerous, lest sacred things become familiar and conventionalized before they are felt or understood.

So long as the child's parents supply the place of Providence to it, and before its wishes and desires expand beyond the domestic circle, it is only a pretty affectation to cultivate a sense of very

great intimacy with the Heavenly Father. To feel its inmost thought watched by a divine eye will only tend to foster self-consciousness, or a morbid and precocious conscientiousness, or at best the forms of conventional morality; while its conceptions of God's nature will be inadequate even to the verge of idolatry, and perhaps forever dwarfed by childish associations. The child's real communion with God is in fact far too immediate and inward to be more than faintly typified by any forms of conscious worship which it can share. It is the being of a precociously and wrongly apprehended God which soon comes to need proofs of his existence; and perhaps, as Lotze says, men were mistaken when they thought they had done well in raising God from that region where he is clung to by the whole soul with all its spontaneous energy, and conferring on him the honor of exactly demonstrating his existence. There is a sense, although it seems more indefinite and general than Lessing thought, in which the stages of a child's mental growth repeat the experience of the race. The idea of God is not flashed in upon the infant mind, complete and vivid at first, by any native intuitions. It can be realized in a natural way only after the necessity of a cause is felt to be general, or when the demand for a unity and centre of things in the wide and varied world arises. The child's conception of God should not be personal or too familiar *at first*, but he should appear distant and vague, inspiring awe and reverence far more than love; in a word, as the God of nature, rather than as devoted to serviceable ministrations to the child's individual wants. The latter should be taught to be "a faithful servant rather than a favorite of God." The inestimable pedagogic value of the God-idea consists in that it widens the child's glimpse of the whole, and gives the first presentiment of the universality of laws, such as are observed in his experiences and others, so that all things seem comprehended under one stable system or government. The slow realization that God's laws are not like those of parents and teachers, evadable, suspendable, and their infraction perhaps pardoned,—but changeless, pitiless, and their penalties sure as the laws of nature,—is a most important factor of moral training; more Jewish perhaps than Christian, more scientific it may be said than evangelical, but a factor too noble to be obscured or suppressed, or prematurely superseded, as it often practically is by the notion of God as a fond and too indulgent Heavenly Parent, like the father or mother

swayed by foolish childish petitions, and always ready and longing to forgive. First the law, the schoolmaster, then the Gospel; first nature, then grace, is the order of growth. That child is unfortunate which has never seen its mother or its father pray, but it does not follow that it should be encouraged to frequent child prayer-meetings.

The pains or pleasures which follow many acts are immediate, while the results that follow others are so remote or so serious that the child must utilize the experience of others. Artificial rewards and punishments must be cunningly devised so as to stimulate and typify as closely as possible the real natural penalty, and they must be administered uniformly and impartially like laws of nature. As commands are just, and as they are gradually perceived to spring from superior wisdom, respect arises; which Kant called the bottom motive of duty, and defined as the immediate determination of the will by law, thwarting self-love. Here the child reverences what is not understood as authority; and to the childish "why?" which always implies imperfect respect for the authority, however displeasing its behest,—the teacher or parent should always reply, "You cannot understand why yet;" unless quite sure that a convincing and controlling insight can be given, such as shall make all future exercise of authority in this particular unnecessary. From this standpoint the great importance of the character and native dignity of the teacher is best seen. Daily contact with some teachers is itself all-sided ethical education for the child, without a spoken precept. Here, too, the real advantage of male over female teachers, especially for boys, is seen in their superior physical strength, which often, if highly estimated, gives real dignity and commands real respect; and especially in the unquestionably greater uniformity of their moods and their discipline.

During the first four or five years of school life the point of prime importance in ethico-religious training is the education of conscience. This latter is the most complex and perhaps the most educable of all our so-called "faculties." A system of carefully arranged talks, with copious illustrations from history and literature, about such topics as fair play, slang, cronies, dress, teasing, "getting mad," prompting in class, white lies, affectation, cleanliness, order, honor, taste, self-respect, treatment of animals, reading, vacation pursuits, etc., can be brought quite within the range of boy and girl interests by a sympathetic and tactful teacher, and be

made immediately and obviously practical. All this is nothing more nor less than conscience building. The old superstition that children have innate faculties, of such a finished sort that they flash up and grasp the principle of things by a rapid sort of first "intellection,"—an error that made all departments of education so trivial, assumptive and dogmatic for centuries before Comenius, Basedow and Pestalozzi,—has been banished everywhere save from moral and religious training, where it still persists in full force. The senses develop first, and all the higher intuitions called by the collective name of conscience, gradually and later in life. They first take the form of sentiments without much insight, and are hence liable to be unconscious affectation, and are caught insensibly from the environment with the aid of inherited predisposition, and only made more definite by such talks as the above. But parents are prone to forget that healthful and correct sentiments concerning matters of conduct are at first very feeble, and that the sense of obligation needs the long and careful guardianship of external authority. Just as a young medical student with a rudimentary notion of physiology and hygiene is sometimes disposed to undertake a more or less complete reform of his diet, regimen, etc., to make it "scientific," in a way that an older and a more learned physician would shrink from, so the half-insights of boys into matters of moral regimen are far too apt, in the American temperament, to expend, in precocious emancipation and crude attempts at practical realization, the force which is needed to bring their insights to maturity. Authority should be relaxed gradually, explicitly, and provisionally over one definite department of conduct at a time. To distinguish right and wrong in their own nature is the highest and most complex of intellectual processes. Most men and all children are guided only by associations of greater or less subtlety. Perhaps the whole round of human duties might be best taught by gathering illustrations of selfishness and tracing it in its countless disguises and ramifications through every stage of life. Selfishness is opposed to a sense of the infinite, and is inversely as real religion; and the study of it is not, like systematic ethics, apt to be confused and made unpractical by conflicting theories.

The Bible, the great instrument in the education of conscience, is far less juvenile than it is now the fashion to suppose. At the very least it expresses the result of the ripest human experience,

the noblest traditions of humanity. Old Testament history, even more than most very ancient history, is distilled to an almost purely ethical content. For centuries Scripture was withheld from the masses, for the same reason that Plato refused at first to put his thoughts into writing, because it would be sure to be misunderstood by very many, and lead to that worst of errors,—a fanaticism caused by half-truths. Children should not approach it too lightly. It might seem that doctrinal catechisms were the most unpedagogic methods of approach, but a more baleful one has been developed in the ardor of those Sunday-school teachers who require devotion in their closet as the chief means of preparation, and go, tingling with the self-consciousness which is the bane of American childhood, to inoculate their classes with their own neurological states. Belief is actually made a duty; and as if that, as too often taught, were not enough to stultify conscience, it is made the supreme duty and a condition of salvation even for children.

The Old Testament, rather than the New, is the Bible for childhood. A good, protracted course of the Law must pedagogically prepare the way for the apprehension of the Gospel. Even for the Old Testament, a propædeutic selection of the choicest moral tales from Catholic legends, classic and Hindoo mythology, ancient myths and fables, German märchen, and perhaps from the Bibles of other religions, etc., should serve as a sort of introduction. What a Sunday-school library might be gradually developed from such sources, in place of the trashy and even pathological matter so commonly in use! Then the study of the Old Testament should begin with selected tales, told, as in the German schools, impressively, in the teacher's language, but objectively, and without exegetical or hortatory comment. The appeal is directly to the understanding only at first, but the moral lesson is brought clearly and surely within the child's reach, but not personally applied after the manner common with us. In that country, only clergymen who have passed a special examination for that purpose, are allowed to teach the Bible to children. This is done in the schools in a way so impressive, that the knowledge of the Bible possessed by the average German child of the age of confirmation, is infinitely better than that acquired by the best children under our uniform lesson system. The causes of unbelief in that country are not found in what precedes that age, but may be due in part

to the fact that Bible study generally ceases then for life. The Old Testament is, from beginning to end, one long and impressive argument in favor of the practical wisdom of righteousness as a condition of personal welfare and national stability—a lesson not untimely now, and in our land. This lesson must be thoroughly and protractedly taught, before the sublime altruistic stand-point of the New Testament can be apprehended. Up to this point the essential training of Jewish, Catholic, and Protestant children now differs only in method and detail, and it seems by no means impossible that a portion of this common element may be some time mutually agreed upon, and even taught in public schools by common consent and with the real advantage of superior methods to all.

Probably the most important changes for the educator to study are those which take place between the ages of twelve and sixteen, when the young adolescent receives from nature a new capital of energy and altruistic feeling. It is a veritable second birth, and success in life depends upon the care and wisdom with which this energy is husbanded. These changes constitute a natural predisposition to a change of heart, and may perhaps be called, in Kantian phrase, its *schema*. Even from the psychophysic stand-point, it is a correct instinct which has slowly led so large a section of the Christian church to centre its entire cultus upon regeneration. In this I of course only assert the neurophysical side, which is everywhere present, though everywhere subordinate to the spiritual side. As everywhere, too, the physical is regulative rather than constitutive. It is therefore not surprising that statistics show—so far as I have yet been able to collect them—that far more conversions, *pro rata*, take place during the adolescent period, which, according to the best authorities, does not normally end before the age of twenty-four or five, than during any other period of equal length.

Before this age the child lives in the present, is normally selfish, deficient in sympathy, but frank and confidential, obedient upon authority, and without affectation save the supreme affectation of childhood, viz, assuming the words, manners, habits, etc., of those older than itself. But now stature suddenly increases, and the power of physical endurance diminishes for a time; larynx, nose, chin change, and normal and morbid ancestral traits and features appear. Far greater, more protracted, though unseen,

are the changes which take place in the nervous system, to which it seems as if for a few years the energies of growth were chiefly directed. Hence this period is so critical, and changes in character so rapid. No matter how confidential the relations with the parent may have been, an important domain of the soul now becomes independent. Confidences are shared with those of equal age and withheld from parents, especially by boys, to an extent probably little suspected by most parents. Education must be addressed to freedom, which recognizes only self-made law, and spontaneity of opinion and conduct is manifested, often in extravagant and grotesque forms. There is now a longing for that kind of close sympathy and friendship which makes cronies and intimates; there is a craving for strong emotions which gives pleasure in exaggerations; and there are nameless longings for what is far, remote, strange, which emphasizes the self-estrangement that Hegel so well describes, and which marks the normal rise of the presentment of something higher than self. Instincts of rivalry and competition now first naturally arise in boys, and girls grow more conscientious, and begin to feel their music, painting, etc., and to realize the bearing of these upon their future adult life. There is often a strong instinct of devotion and self-sacrifice toward some, perhaps almost any, object or in almost any cause which circumstances may present. It is never so hard to tell the truth plainly and objectively, and without any subjective twist. The life of the mere individual ceases and that of person, of the race, begins. Many relations of things which hitherto seemed independent are seen. It is a period of realization, and hence often of introspection. It is the golden age of life, in which enthusiasm, sympathy, generosity, and curiosity are at their strongest and best; and when growth is so rapid that, *e. g.*, each college class is conscious of a vast interval of development which separates it from the class below; but it is also a period subject to Wertherian crises, such as Hume, Richter, J. S. Mill, and others passed through,—and all depends on the direction given to these new forces.

The dangers of this period are great and manifest. The chief of these, far greater even than the dangers of intemperance, is that the sexual elements of soul and body will be developed prematurely and disproportionately. Probably the greatest and most experienced living teacher of physiology has expressed the opinion that

at least nine-tenths of the thoughts, feelings, imaginations of the *average* male adolescent centre for a few early years of this period about this factor of his nature. Quite apart, therefore, from its intrinsic value, education should serve the purpose of pre-occupation, and should divert attention from an element of our nature, the premature or excessive development of which dwarfs every part of soul and body. Intellectual interests, athleticism, social and æsthetic tastes should be cultivated. There should be some change in external life. Previous routine and drill-work must be broken through and new occupations resorted to, that the mind may not be left idle while the hands are mechanically employed. Attractive home-life, friendship well chosen and on a high plane, and regular habits, should, of course, be cultivated. Now, too, though the intellect is not frequently judged insane, so that pubescent insanity is comparatively rare, the feelings, which are yet more fundamental to mental sanity, are most often perverted, and lack of emotional steadiness, violent and dangerous impulses, unreasonable conduct, lack of enthusiasm and sympathy, are very commonly caused by abnormities here. Neurotic disturbances, such as hysteria, chorea, and, in the opinion of some, sick-headache, are peculiarly liable to appear and become seated during this period. In short, the previous self-hood is broken up like the regulation copy handwriting of early school years, and a new individual is in process of crystallization. All is solvent, plastic, peculiarly susceptible to external influences.

Between love and religion, God and nature have wrought a strong and indissoluble bond. Even Plato, in the Symposium, teaches this very impressively. Change of heart before pubescent years, is the most disastrous of all precocities and forcings. The age signalized by the ancient Greeks as that at which the study of what was comprehensively called music should begin, the age at which Roman guardianship ended, as explained by Sir Henry Maine, at which boys are confirmed in the modern Greek, Catholic, and Lutheran churches, and at which the child Jesus entered the Temple, is as early as any child ought to go about his heavenly Father's business. "It did not seem to me modest for my daughter to hear," said a cultivated and devout German mother, explaining why she had sent her twelve-year-old daughter from the room while I was describing revival scenes I had witnessed in this country. If children are instructed in the language of these sen-

timents too early, the all-sided deepening and broadening of soul and of conscience which should come with adolescent years, will be incomplete. Revival sermons to young children are analogous to exhorting them to imagine themselves married people, and inculcating the duties of that relation. It is because this precept is violated in the intemperate haste for immediate results, that we may so often hear childish sentiments and puerile expressions so strangely mingled in the religious experience of otherwise apparently mature adults, which remind one of a male voice constantly modulating from manly tones into boyish falsetto. Some one has said of very early risers that they are apt to be conceited all the forenoon, and stupid and uninteresting all the afternoon and evening. So, too, precocious infant Christians are apt to be conceited and full of pious affectations all the forenoon of life, and thereafter commonplace enough in their religious life. One is reminded of Aristotle's theory of Catharsis, according to which the soul was purged of strong or bad passions by listening to vivid representations of them on the stage. So, by the forcing method we deprecate, the soul is given just enough religious stimulus to act as inoculation against deeper and more serious interest later. At this age the prescription of a series of strong feelings is very apt to cause attention to concentrate on physical states in a way which may culminate in the increased activity of the passional nature, or may induce that sort of self-flirtation which is expressed in morbid love of autobiographic confessional outpourings, or may issue in the supreme selfishness of incipient and often unsuspected hysteria.

God, Scripture, etc., cannot seem supreme unless taught most vigorously near the end rather than near the beginning of the educational course. Reference to these should be after we have thought and investigated and applied our faculties to their utmost, rather than before. Those who are led to Christ normally by obeying conscience are not apt to endanger the foundation of their moral character if they should later chance to doubt the doctrine of verbal inspiration or some of the miracles, or even get confused about the Trinity, because their religious nature is not built on the sand. The art of leading young men through college without unsettling any of the religious notions of childhood is anti-pedagogic and unworthy philosophy, and is to leave men puerile in the highest department of their nature.

At the age we have indicated, when the young man instinctively takes the control of himself into his own hands, previous ethico-

religious training should be brought to a focus and given a personal application, which, to be most effective, should be according to the creed of the parent. It is a serious and solemn epoch, and ought to be fittingly signalized. Morality now needs religion, which cannot have affected life much before. Now duties should be recognized as divine commands; for the strongest motives, natural and supernatural, are needed for the regulation of the new impulses, passions, desires, half-insights, ambitions, etc., which come to the American temperament so suddenly, before the methods of self-regulation can become established and operative. Now a deep personal sense of purity and impurity are first possible, and indeed inevitable, and this natural moral tension is a great opportunity to the religious teacher. A serious sense of God within, and of responsibilities which transcend this life as they do the adolescent's power of comprehension; a feeling for duties deepened by a realization and experience of their conflict such as some have thought to be the origin of religion itself in the soul,—these, too, are elements of the "theology of the heart" revealed at this age to every serious youth, but to the judicious emphasis and utilization of which the teacher should lend his consummate skill.

Finally, there is danger lest this change, as prescribed and formulated by the church, be too sudden and violent, and the capital of moral force which should last a lifetime be consumed in a brief, convulsive effort, like the sudden running down of a watch if its spring be broken. Piety is naturally the slowest, because the most comprehensive kind of growth. Quetelet says that the measure of the state of civilization in a nation is the way in which it achieves its revolutions. As it becomes truly civilized, revolutions cease to be sudden and violent, and become gradually transitory and without abrupt change. The same is true of that individual crisis which psycho-physiology describes as adolescence, and of which, theology formulates a higher spiritual potency as conversion. The adolescent period lasts ten years or more, during all of which development of every sort is very rapid and constant, and it is, as Bushnell remarked in his admirable paper on Christian nurture, to which, its writer is much endebted, intemperate haste for immediate results, of reaping without sowing, which has made so many regard change of heart as an instantaneous conquest rather than as a growth, and persistently to forget that there is something of importance before and after it in healthful Christian experience.

A DISCUSSION ON INSANITY.

The evening of Wednesday, September 7, at the Saratoga meeting of 1881, was occupied with a discussion of Insanity in its general aspects, at which Mr. Dorman B. Eaton, of New York, presided; the principal feature of the discussion being a Paper by Dr. Jacobi, which was read in her absence, by Dr. Edward C. Seguin, of New York. The subject was introduced by Mr. Eaton, with a few remarks, and he spoke again after the reading of the Paper, but no report of his remarks has been furnished. Prof. Harris, Chairman of the Department of Education, Dr. Channing, Chairman of the Health Department, Dr. Seguin, Mr. F. B. Sanborn, and others spoke in the debate, and an abstract of what they said is given below.

DR. JACOBI'S PAPER.

Some Considerations on the Moral, and on the Non-Asylum Treatment of Insanity.

BY MRS. MARY PUTNAM JACOBI, M. D., OF NEW YORK.

Read Wednesday evening, September 7, 1881.

The two branches of my subject indicated in its title, are in no opposition to each other. It is conceivable that moral treatment should be carried out at our asylum; it is advised; nay, nearly all the special advantages offered by asylums constitute so many elements of moral treatment. "There is," says Krafft Ebing, "no longer any room for the question, whether the therapeutics of insanity should be exclusively somatic or psychic. The knowledge that all mental phenomena are functions of the brain, indicates to us to try to affect the morbid psychic life through all psychical influences, — through the systematic awakening of feelings, conceptions, and impulses; and the experience that anatomical processes in the brain lie at the basis of insanity, commands all our efforts to remove the disturbance of the cerebral functions by means of physical medication. In the equal estimation of somatic and psychic treatment, and in the strenuous necessity for their combination, is to be found the fundamental law in the therapeutics of the psychoses." Another reason may be added to those mentioned by Krafft Ebing for this duplex therapeutics. It is that the cause of an attack of insanity may be either moral or physical, or, much more frequently, both combined. The relative predominance of the somatic or pyschic element in the treatment of any given case, must correspond to that in its etiology.

In the remarks we take the liberty of offering on this occasion, we do not propose to consider the problems of the management of the pauper insane, of the provision to be made for incurable dementia, or for the final and degraded forms of insanity. Nor do we here touch upon the treatment of the psychoses associated with definite brain diseases, as general paralysis, or epilepsy. The question we select out of the vast and tangled mass, is that of the theoretically best treatment for those forms and stages of insanity which are recognized as curable, and yet which very frequently remain uncured. Setting aside discussion of the practical difficulties in the way, we would like to consider what answer could be made to the inquiries of intelligent parents who are able and anxious to contend with all difficulties, if the hope could be held out to them of ultimate cure or even of palliation to the mental disease of their smitten children. If the theory were once well worked out for these relatively fortunate cases, a standard would exist with which the treatment of the poor and unfriended could be compared. At present the notion is widely diffused that the cardinal and only treatment for insanity in any form and at any stage, is removal to an insane asylum; that this constitutes *in itself* a mode of cure, whose chances of success are great in porportion to the early stage of the disease at which it is instituted. Detection of incipient insanity is, therefore, said to be valuable, merely for the sake of forcibly submitting the patient to this cure at an earlier period.

We think it is quite worth while to recall in this connection what has been said, not against the abuses of asylums, but against the principle of asylum treatment. Dr. Mortimer Granville, after laborious researches among the best asylums of Great Britain, arrived at the following conclusions: *

"The existing method of dealing with lunatics is chiefly notable for its negative advantages. It is free from the objections which public opinion urged on grounds of humanity against the restraint system; but it has few positive excellencies of its own, and of these, scarcely one is remedial. . . . There is a radical fault at the base of the asylum system, and every thing is made to conform to it. Uniformity is the one dominant idea. But it is impossible to deal with minds in the mass. . . . It is one of the disadvantages accruing to the modern system of treatment, which is, indeed, scarcely a system, that cases are too frequently allowed to drift, if only quiet wards, a low death rate, and a fair proportion of discharges described as 'recoveries' can be secured. It is not that cases are neglected; they are simply overlooked." . . . "The asylum question narrows itself to one of method. The present system consists in attempting to meet the demand by simply multiplying the supply. I contend (we are still quoting from Granville), that this practice is erroneous, and can never command entire success."

* "Care and Cure of the Insane." London, 1877.

According to Professor Duncan, "it is scarcely wrong to assert that the magnificent accessories of the treatment of the insane, have not been of great service to humanity. Lunatics are not more frequently cured than they used to be; the number of recoveries has not increased; the whole asylum system is uselessly expensive, and detrimental to the majority of the insane." *

Before this writing, Maudsley had been even more emphatic. He declares that insane asylums originated "in the shame, horror, and dread of insanity which still infect the public mind. . . . To shut the insane up from gaze, and, if possible, from memory; to be rid at any cost of their offending presence, — that was the one thing to be done, and fit implements were not wanting to do it. . . . I hold it to be an erroneous principle to lock up a person in an asylum simply because he is mad. . . . No one, sane or insane, should ever be entirely deprived of his liberty, unless for his own protection, or for the protection of society. . . . The world has grown to the fashion of thinking that madmen are to be sequestrated in asylums. . . . Even those who labored to effect the abolition of restraint within asylums, never dreamt of the abolition of the restraint of asylums. . . . Not the least of the evils of our present monstrous asylums, is the entire impossibility of any thing like individual treatment in them. . . . One effect of asylums is to make some permanent lunatics. . . . I can certainly call to mind more than one instance in which I thoroughly believe the removal of a patient from an asylum was the salvation of his reason." †

In apparent opposition to these observations are the statements of Krafft Ebing, "that the asylum is not rarely the most direct agent of cure" ‡; and of Griesinger, "that removal to a *good* asylum is most urgently indicated in the greater number of cases." § The necessary modification is supplied by the authors themselves, in remarks which may, under many circumstances, furnish a basis for the English criticisms. "Never," observes Griesinger, "is the need of minute individualization more strenuous than in the therapeutics of insanity." "It is," says Krafft Ebing, "in the individualizing treatment of the psychically sick person that lies the entire interest, but also the entire difficulty of the therapeutics — especially in regard to its psychical side." The difficulty of effecting such individualization among the crowded populations of the best insane asylums is obvious. Before de-

* Quoted by Granville from the *Quarterly Journal of Science*, April, 1870.

† "Pathology of the Mind," pp. 423–43[illegible]. Krafft Ebing attributes the foundation of asylums to the humane persuasion that insanity was a disease to be treated. He seems to forget Bedlam.

‡ "Lehrbuch der Psychiatrie," Bd. 1, 1880.

§ "Psych. Kranheiten," 1867 (p. 477). Griesinger gives an elaborate and attractive picture of the comfort which may be experienced by a mentally sick person on finding himself removed from the vexations and misunderstandings of home to the sheltering calm of an asylum.

ciding that insanity is practically incurable, it is important to ask how far this difficulty alone has not hitherto stood in the way of cure.

A terrified popular imagination still pictures insanity as some mysterious and monstrous incubus, coming from distant regions of darkness to crush out human reason. In reality, however, insanity means a complex multitude of morbid states, varying indefinitely in form and intensity, but all composed of elements which preëxist in health. This fact affords a basis for prophylaxis, for it indicates the possibility of detecting these elements and, to a certain extent, of anticipating their morbid combinations.

There are as many degrees in the soundness of men's minds as in the soundness of their digestions. Study of the organism of the family, sometimes in several generations, often serves to detect flaws in the individual organization otherwise too minute for notice. It is to the family organism that especially applies the doctrine of the blending of apparently opposite elements, — as genius and insanity, both springing from an unstable equilibrium of the nervous system. These elements sometimes, though rarely, blend in the same person. But far more frequently it is inheritance from the undeveloped side of an organization of genius which results in an organization of imbecility. The original organization gives the physical substratum; upon this the succession of psychic processes, which begin with the dawn of consciousness, builds up the mental individuality. Ideas, feelings, volitions, enter liberally into the structure of the mind, — are the constituent elements of which this has been built up. Permit me to quote the description given by the celebrated Griesinger:

"Self-consciousness, — the Ego, —" he says, "is an abstraction in which are contained, closely welded together, residues of all the sensibilities, thoughts, and volitions which the individual has ever experienced. . . . These are gradually aggregated into complex masses of conceptions, varying in density and resistance, according to the internal cohesion of their elements. . . . The character of the individual varies with their relative predominance; their constant struggle with one another constitutes the internal conflict which is essential to normal mental existence. . . . The development of insane delusions follows the same law as that of healthy ideas. New sensibilities, volitions, and conceptions present themselves to the preëxisting conception masses, are at first repelled by these, gradually penetrate them, and if the cohesiveness of the latter be weak or weakened, assimilate to them until the Ego is transformed or completely falsified. *In this process the previous composition of the Ego is seen to be of immense importance.* A weak (loosely knit) nature will, much earlier than a strong one, be overborne by anomalous conceptions." *

Thus, at any given moment, the mental organism consists not

* "Pathologie und Therapie der Psychischen Krankheiten," 1867.

only of its physical substratum, but of that *and* of the long series of psychic processes which have been built up on it. It is a fundamental law of all organized tissues, and most conspicuously illustrated in the brain, that function not only depends upon structure, but ends by modifying it. Hence, morbid modifications of psychic processes may be initiated either in them or in the physical substratum. This is equivalent to the previous assertion that insanity may be determined either by a psychic or a somatic cause, but generally requires the concurrence of both. In the existing professional and popular reaction against the old puerilities of the exclusively moral theory of insanity, these facts are often overlooked or misunderstood. The question of prophylaxis has become narrowed down to the question of prophylaxis in marriage. This is not only much too narrow, and the social difficulties in the way very great, but the rules for practice have been by no means worked out, and many of those which have been suggested are erroneous or superficial.

The fact that the previous constitution of the mental conception masses modifies the process of their falsification under the influence of mental disease, should suggest an effort to so build up this constitution that it may be fitted to resist strain. For the formation of the conception masses is far from being a spontaneous or self-directed process. No ideas can enter the forming mind except from without, from communication with its fellows, or from the transformation of sense impressions. It is therefore largely in our power to determine the nature of the ideas of any child who is *thoroughly* guarded from his cradle. Again, the will develops in the mould it makes for itself by successive volitions; these may to a considerable extent be commanded or contrived. It follows that, hand in hand with prophylactic treatment of the physical substratum of the inherited nervous organization, should go strenuous educational prophylaxis of the psychic processes. But there is needed a far-sighted, comprehensive, minute education, which should begin with the dawn of consciousness, and extend, if possible, through life. It should have a detailed objective or reason for each step, in the elementary lesions of the disease which menaces the person, or in the elementary defects of his menaced constitution.

To assert that moral prophylaxis is useless because insanity is merely a symptom of physical disease, is to contradict the facts of the double nature and double origin of the psychoses which are admitted by the best authorities. Educational prophylaxis could only be expected to contribute one factor toward the solution of the problem; but it is one, and all the more worth considering, because at present it is so generally neglected. A more plausible objection is that the moral substratum of minds predisposed to insanity is peculiarly perverted, so that they are insusceptible of education. That it is precisely this insusceptibility which especially

manifests their predisposition. Finally, it may be alleged that the traits of character which exist in a person before an attack of insanity, can offer no guide for treatment, because in the attack these are all reversed.

This last objection is met by the answer that the prophylaxis of mental, as of somatic diseases, is to be directed, not to the symptoms of the malady, but to the constitutional defects which facilitate its invasion, and to the circumstances of the surrounding medium which become the occasioning cause. Thus, it is known that under a great weight of responsibility a cheerful-tempered, but feeble-willed person may break down into melancholia. The prophylactic training should therefore be directed, not toward making such a person more cheerful, but toward inuring him, by gradual practice, to bear responsibility. And so for other analogous cases. All cases, however, are not analogous. In a great many, especially where the mental disease develops gradually, its morbid features are seen to unfold, one by one, from those which have always existed. There is often a so-called "hypertrophy of character." This is especially the case in the great class of mental diseases which are associated with organic deterioration of the family constitution, in which each member of the family participates in varying degrees. This class is called by Krafft Ebing the psychic degenerations. The mental diseases of this class are often apparently spontaneous in origin.

Attacks of insanity occurring in persons with brains previously sound, with a minimum of predisposition, and under the influence of really powerful occasioning causes, are considered functional and relatively benign. They are called, in distinction from the first, psycho-neuroses. Their prognosis is relatively favorable. For, although quite capable of terminating in chronic mania or dementia, they tend, under favorable circumstances, to spontaneous recovery.

The psychic degenerations are often incurable. But, on the other hand, they are often stationary, remain through life without progressing to any dangerous degree, and are then to be regarded rather as defects than diseases. In some cases treatment, either moral or physical, can never accomplish more than palliation; in others it may be expected to avert the development of active disease out of the defect. Finally, in the most degraded forms of congenital moral insanity, the case is really insusceptible to education, and must be abandoned to permanent restraint. For these latter cases is really valid the objection against prophylactic education, urged on account of its impracticability. But these cases form only a portion of the immense number with which we are called upon to deal.

The ideal prophylaxis implies that in neuropathic families the entire life of each child, its physical and moral training, and every detail of its social surroundings, should be planned with a view to

avert mental disease. According to the degree of predisposition, this is liable to occur spontaneously at ordinary physiological crises, as puberty, menstruation, pregnancy, parturition, lactation, the climacteric; or only under the influence of external causes. In the latter case, the far-sighted disposition of the social medium of a predisposed person may often avert an attack of insanity by averting the cause. It is evident that the far-sighted and self-controlled guardianship required should be entrusted to a person not sharing the family constitution; to the parent who may be exempt, or, if both are affected, to a person who is not a relative at all. For the present purpose only a word is needed in regard to the main details of physical prophylaxis. They are: abundance of nitrogenous food; daily cold bathing; pure air; daily exercise in it, especially by means of cultivation of the ground, the cardinal employment for the body and mind of neurotics. A fifth point of great importance is rest; equally so for an immediately threatened attack, and in the life-long management of susceptible persons. For them over-exhaustion and fatigue are always to be dreaded, and to these they are particularly prone, from the extremely deficient power of resistance of their nervous system. It is worth noticing that it is neuropathic families more than any others who are liable to neglect the foregoing precautions.

For effective moral prophylaxis, it is desirable that a certain amount of information be properly diffused, to facilitate the awakening of domestic solicitude, the recognition of incipient insanity, and of the slighter but significant marks of the insane temperament. This may prove as useful as it has already done in regard to scrofula, rhachitis, tuberculosis, and other constitutional diseases.

Krafft Ebing ranks severe and congenital hysteria with the psychic degenerations, and shows it to be the forerunner of much real insanity.* Knowledge of this fact might do much to check the capricious and vacillating treatment to which youthful hysterical patients are generally subjected. On the other hand, in the permanent prophylaxis for adult life, which must so largely be committed to the patient, it is extremely useful to be aware of the relative benignity of the very forms of insanity which usually excite the most alarm. Acute melancholia, mania, and primary dementia are classed with the functional disorders or psycho-neuroses, tending, under favorable circumstance, to spontaneous recovery. This knowledge might help to avert at least those distressing suicides which are committed, not from insane impulses, but under the dread of impending insanity. They are far from proving that this has already set in, for it is really not irrational to chose death in preference to permanent dementia.

The following traits are signalized as characteristic of the neu-

* This statement is not made in regard to acquired hysteria, symptomatic of uterine or other diseases.

ropathic constitution — constitution which affords the main physical and moral basis for the development of insanity. In neuropathic families the children early manifest a remarkable nervous excitability, with tendency to severe neurotic disorders at physiological crises, as convulsions during dentition, neuralgias at menstruation. The establishment of menstruation is often premature, often preceded and followed by profound chloro-anæmia. The cerebral functions are easily disturbed, slight physical disorders being attended by somnolence, delirium, hallucinations. The nervous system seems to be everywhere hyperæsthetic. Reaction to either pleasing or displeasing impressions is excessive, there are abundant reflex neuralgias, vaso-motor irritations. Pallor, blushing, palpitations, praecordial anxiety, are caused by trifling moral excitement, or by agents lowering the tone of the vaso-motor nerves, as heat or alcohol. The sexual instincts are precocious and often perverted. The establishment of puberty is often the sign for the development of spinal irritation, hysteria, or epilepsy. The psychic characteristics correspond. The disposition is strikingly irritable and touchy; psychic pain arises for trifling cause; at the least occasion the most vivid emotions are excited. The subjects of this temperament alternate rapidly from one extreme to the other; their sympathies and antipathies are alike intense; their entire life is passed between periods of exaltation and depression, leaving scarcely any room for healthy indifference. On the other hand, there is a remarkable inexcitability of ethical feeling. Vanity, egotism, and a jealous suspiciousness are common, and the temper is often violent. The mind is often obviously feeble, with few and monotonous ideas, and sluggish association of them. At other times ideas are readily excited, the imagination is active, even to the production of hallucinations; but mental activity is ineffective because of the rapidity with which it leads to exhaustion. There is no time to complete any thing before the energies flag. The will is equally deceptive in its apparent exuberance and real futility. Its capricious energy and innate weakness is a fit counterpart for the one-sided talent or even whimsical genius which often marks the intelligence.*

This disposition constitutes the moral substratum which, together with the physical constitution, affords the constitutional basis for psychic disease. In it two elements are conspicuous: a profound and often unconscious egotism, resulting from the predominance of the instincts over the faculties for external relations; and a constant ineffectiveness in the maintenance of these relations, — in other words, abnormal weakness of the will. These elements reappear in insane diseases. Egotism is the nucleus of the exactions of hysteria, and determines the form of all delusions, which, whether primary, or engendered from emotional insanity, invariably centre on the depression or exaltation of self.

* Abridged from Krafft Ebing.

The suspiciousness and violent temper so frequent in the neuropathic, develops easily into the technical delirium of persecution or of quarrelsomeness. The psychic hyperæsthesia common to several psychoses, but typical of melancholia, depends, on the one hand, on the same primitive egotism; on the other hand, on the weakness of the will, on account of which the normal channel from feeling to action is blocked. Pent-up feeling is always hyperæsthetic; psychic pain is the correlative of external ineffectiveness, even when not directly caused by it.

Diminished interest in external relations results in psychic anæsthesia, especially in regard to moral appreciations. This anæsthesia is again the direct correlative of the excess of instinctive and personal interests, and of the weakness of the will which fails to enlarge the scope of the personality, as it is naturally destined to do.

When the will is feeble, sluggish, inert, the tendency of the mind to sink under pressure, and especially under the weight of responsibility, is very great. "The fact of human freedom," says Griesinger, "is the fact of the conflict in consciousness of opposing ideas, and of the termination of the strife by the conception mass representing the Ego, which assimilates part of the ideas and represses the rest." Feeble natures cannot bear this conflict without excessive pain, to which, at last, they not unfrequently succumb. In melancholia, the consciousness of diminished will power is a prominent and most painful symptom of the morbid state. The feebleness of the will may be manifested, not by sluggishness, but by infinite caprice and incessant vacillations. This may reflect a torrent of incoherent ideas; or it may represent so rapid a transformation of an idea into an impulse, that the latter alone seems to exist. Here the channel from the internal to the external world is not obstructed; its resistance, on the contrary, is abnormally diminished; yet the volition is still ineffective. Effective volitions demand distinct and correct ideas of the external medium upon which they are to be expended. But one of the most essential elements of insanity, and of the constitution predisposing to it, is the diminution in the number, force, variety, and accuracy of the ideas held concerning the external world, and on the relations of the individual to it. This monotony of ideas is sometimes, before the attack, concealed behind desultory verbiage. Sometimes, during the immediate prodromata of an attack, it is temporarily replaced, even in feeble-minded people, by an unwonted vivacity and power. Completed delirium, however, is always monotonous. Correlated to the egotistic instinct, it always centres on the personality of the individual, which is outrageously oppressed or illimitably exalted. The ideas are few; their associations sluggish; memory and attention are weakened even to extinction.

A deficient power of attention is generally a marked charac-

teristic of the neuropathic state; it lies at the basis of the irritable impatience which is so frequent in it. This leads to the formation of loosely knit conception masses, ready to assimilate anomalous notions. The mind is naturally credulous; unapt for criticism. It offers less resistance than another to the invasion of false ideas.

Thus the three great elements in the moral substratum of a person predisposed to insanity, are: the egotistical predominance of the instincts over the faculties of reflection and external relation; the ineffectiveness of the will, even when this is impulsive or violent; the inaptitude for ideas, resulting in their poverty and imperfect combination. The whole nature is shrunken upon itself; there is not enough vital turgescence to expand it to its normal circumference, and to the points of contact of this with the external world. The cardinal point in the management of such natures is, therefore, the expansion of their shrunken individuality. This is to be effected by means of a strenuous educational system, directed at once toward the repression of the egotistic instincts, the enrichment and systematization of the ideas, and, through multiplication of acts and external relations, the energizing of the feeble will.

The scope of the method will be made clearer by some examples. Thus: grief is an efficient moral cause of insanity. That it does not more often render people insane, is indeed a remarkable proof of the resources of the healthy human organism. However various the occasions for grief, yet in so far as these all imply personal loss, the principle of their influence is always the same. The mind becomes so concentrated on the thought of this loss, that the latter acquires the ascendency of a fixed idea. Apart from physical disease, the inability of diversion is great, in proportion to the habitual poverty and monotony of ideas; to the fewness of relations with the external world; to the preponderance of habitual interest in matters relating to self; to the inertness of the will, unable by vigorous action, to extend externally irritations of psychic pain. Similarly, when disappointment or humiliations, great or small, real or fancied, are the cause, or injuries, or the suspicion of injuries, the power of the predisposition and of the occasioning cause being constantly in inverse relation to each other, we reach a grade of exaggerated hysteria or hypochondria where the egotistic instincts become able of themselves to generate melancholy, irritability, and delusions.

In another class of causations, shock plays a prominent part. Inability to resist shock is partly proportioned to poverty of ideas, which permit overwhelming surprises; partly to habitually unrestrained emotionality; partly to the passivity which prevents quick reaction. Analogous is the effect of strain, of excessive anxiety, of long standing care and responsibilities. Healthy and justly proportioned indifference is essential to healthy equilibrium; an excess of sensibility over reflection or will power, predisposes

to insanity under sufficient irritation. All experience shows that an excess of egotistic sensibility, is far more dangerous than an excess of sympathy, the latter being indeed extremely rare in the neuropathic constitution. It may become a cause in non-constitutional insanity. Another line of causation is that in the direction of ideas, where the invasion of false ideas is facilitated by habits of credulity, superficial reasoning, loosely knit conception masses. An unreflecting enthusiasm easily embraces exciting doctrines, as in the various religious or political manias, or is carried away by suggestions which covertly appeal to the egotistic instincts, flattering or alarming them, or submits to incongruous beliefs, as in the so-called partial insanity or mono-mania.

In the cases where insanity develops in persons of great and trained intelligence, as in the famous examples of Comte and Rousseau, the intellect is not reached through intrinsic feebleness, but indirectly. Rousseau was the victim of a congenitally depraved organization, whose deterioration progressed regularly toward a final delirium of persecution and suicide. In the case of Comte, prolonged concentration of the intelligence upon a single set of ideas, so dangerously imitated the monotony of insanity, that the reason, mainly by this means, seems to have become temporarily overthrown. This case really serves to justify one of the cardinal points we have mentioned in the prophylactic method. We have no space for further illustrations, but detailed examination of the immediate etiology of many cases of insanity, constantly discovers more cases where this resolves itself into a simple failure of the psychic powers to continue their functions under the ordinary wear and tear of existence. These cases, possibly under deceptive appearances of ability, are all marked by innate feebleness.

Let us now consider in what way education may work against these constitutional defects.

Perhaps none of the details of an educational prophylaxis are foreign to the principles theoretically advocated for ordinary education. But in this they are applied, if at all, in a manner so lukewarm and vague as would render them useless for so grave a problem as the prophylaxis of insanity. To consider these principles in the order already enumerated, the repression of egotistic instincts demands effort in two directions. Negatively, these are to be atrophied by a studied atmosphere of indifference to caprice, violent tempers, ridiculous pretensions, exorbitant exactions ; none of which are allowed to be gratified. In this permanent atmosphere, created by the mind controlling and guarding the child, he may learn to appreciate his insignificance relatively to the external world. Toward this and its interests he is secretly apathetic, except so far as they may be made subservient to his own vanity. The principle of justice, based on the simple fact of primitive equalities, must be profoundly in-wrought, by practical exercises, into the consciousness of the neurotic. He is naturally inclined

to submit every thing to the test of his sympathies and antipathies; and the cultivated habit of reference to simple justice instead, will save him from innumerable entanglements, perplexities, and agitations most dangerous to his mental equilibrium.

The multiplicity of human interests, the vastness and importance of the interests of the world, as compared with his own, may be impressed upon the child's imagination in many ways, if ingenuity be not lacking. The incidents utilized or contrived, necessarily vary with the age of the child, but the same complex end is always to be held in view: restoration of the normal proportion between egotistic instincts and faculties of relation, and excitation of healthful ideas through healthful practical experiences and association with the fortunes of his fellows. Sometimes, together with mental vivacity, sometimes with mental inertness, the mind of the neuropathic individual is apt to be really indifferent to intellectual relations, to knowledge for its own sake, to disinterested curiosity, the happiest appanage of a sound intelligence. Interested motives must be skilfully supplied, sufficiently to provide for the acquisition of knowledge essential to the enrichment of ideas, yet with caution, lest vanity and *amour propre* be unduly stimulated.

The acquisition of knowledge, the training in morals, the formation of habits of thought, must all be centred upon practical activities. It is the proper development of these which is to be relied upon to energize the feeble will; to accustom it to effectiveness by training to productive industry; to broaden and deepen the channels from internal concepts to impulses; to provide thus for the overflow of dangerous irritations; to check the flightiness, frequent forerunner of insane impulse; to widen the range of interests and of correlative ideas, and hence of resource against shock, vexation, and misfortune; to moderate inordinate vanity by submitting its pretensions to practical tests; to regulate moods by habits of daily labor, and to enlarge the entire personality, for the future as well as the present, by insuring, from internal pressure, the creation of a permanent career. This latter element of prophylaxis might well save from insanity many of the "lazy and languishing young ladies," whom Mortimer Granville complains of as filling private insane asylums.

It is not enough to attempt to widen the range of ideas. In some directions, and unguarded, this proves simply disastrous to persons of innately feeble intelligence. They must be trained in the formation of practical concepts; associated as much as possible with practical facts, with sense impressions, and with experiences in action. Clearness, definiteness of ideas, their frequent association with images, afford no inconsiderable safeguard against morbid mental confusion. Similarly the careful training of the senses in various techniques contributes much toward the steady outward direction of nervous energies, which is needed to counteract the tendencies to internal concentration. In this connection, gymnastic training has a mental as well as physical influence. It

would be difficult to prove that such training of the periphery of the nervous system could counteract the development of hallucinations, which are caused by central irritation of the sensory centres. But it certainly lies in the line of such counteraction. If it be important to fill the mind with concrete ideas, it is at least as important that these be correct, and not liable to be uprooted in later life. This liability constitutes a real danger in the notions of popular theology, which are so loosely allowed to be acquired even by guardians who do not believe in them. To persons predisposed to insanity, the uprooting of fundamental ideas can by no means be performed with impunity. It is important to train such persons early in a sound and simple philosophy, which shall provide a firm basis for thought and life without inviting to speculative thinking.

Finally, since the object to be gained is firmness and strength for the mind in dealing with its own concepts, practical exercises in the elementary intellectual acts are extremely important. These are but feebly carried out in ordinary schools, because the object in view is not distinctly perceived or firmly grasped. The first signs of failing mental power are, loss of memory, of power of association of ideas, of summoning contrasting ideas into consciousness, of reproducing or comparing or criticising them. It is indicated, therefore, to train the mind in advance to profound habituation with these various processes. Such training will avail nothing when physical lesions have begun to destroy the intellectual mechanisms. But it may avail much in the cases where the integrity of these first becomes impaired from obstruction of function and psychic disability.

One other detail deserves notice, for it rarely receives attention. In minds predisposed to insanity there is often, perhaps always, a marked deficiency of elasticity. An impression sinks and remains; the mind cannot disengage itself nor recover its tone: it cannot pass quickly enough into the contrasting mood; a capacity to do this is the natural provision against strain; it probably corresponds to a law of rhythmic action in the physical mechanisms of thought. This capacity should, therefore, be carefully cultivated by encouraging alternations of attention at the first sign of fatigue. The contrary practice of forcing an immature mind to continued attention while under the influence of fatigue, instead of teaching it how to quickly change, is the habit of commonplace education. Injurious to all, it is especially so to persons predisposed to depressing forms of insanity. It exhausts still further the elasticity, in which they are naturally deficient. The management of the perverted instincts of neuropathic constitutions may, when these are advanced in deterioration, prove a hopeless task. At a less severe degree, however, many bad propensities may be held in check by a skilful combination of the methods of punishment, emulation and distracted attention.

One difficulty in guiding these cases generally lies in the fact

that their pathological nature is not early recognized. Children are incessantly moralized, whose minds do not contain any conceptions of morals, and only an imperfect mechanism for ethical functions. According to the degree of imperfection, such persons must be dealt with as animals, who can certainly be trained into habitual lines of conduct, even though destitute of the corresponding abstract ideas.

One morbid appetite calls for special mention, that, namely, for alcoholic liquors. This, like the others, is often manifested early in life, and, as known, is not only a symptom of a neuropathic constitution, but, when indulged, a potent occasional cause of insanity. The management of this appetite is a most difficult problem. It has been plausibly suggested that the permanent and moderate administration of alcohol in the form of beer, might, with other treatment, help to avert the development of the irresistible craving.

Such are the abstract principles of a system of treatment which, if seriously carried out, properly associated with physical treatment, and so arranged that every other consideration should be subordinated to the attainment of its ends, should prove of real value in helping to avert many cases of insanity. The physical and moral treatment of an actual attack, must be divided into: treatment of the (complex) cause; palliation of the symptoms as they arise; management of transition states. The etiology of an attack, when this can be traced, is, as has been said, nearly always complex. There is always both a physical state and a moral event or influence, both of which require to be removed.

It is foreign to our purpose to enumerate any of the bodily diseases which may become the proximate cause of an attack of insanity. They are so numerous that no patient's case can be decided on without a complete examination of every organ of his body. But there is one general condition, complex, in that it involves both body and mind, and which most commonly exists at the beginning of the psycho-neuroses. We mean some state of exhaustion which imperatively demands rest as the first element of treatment. In the profounder forms of melancholia, rest in bed is essential. Popular recognition of this is useful, because it would counteract the almost universal tendency to combat depression of spirits by travel, rapid change of scene, incessant amusement. These devices more often exhaust and confuse the patient than prove of real service. A single change of scene at the outset of the attack, is universally recognized as important. When the morbid irritations lie in the scenes immediately surrounding the patient, removal of the patient to another place, and among different people, may entirely fulfil the casual indication. But the routine application of this principle easily allows the real moral cause to be overlooked. Anxiety, humiliation, perplexity, disappointment, may be left to prey uninterruptedly on the mind of the patient in the calmest seclusion

of a whitewashed room at an asylum. The tact of the physician is to be first exerted in detecting the real subject with which the patient is preoccupied. A wholesale onslaught on the conditions which are supposed to worry him, resembles the advice formerly given at the beginning of every acute disease, while waiting for the diagnosis, "to clear out the system" by a good dose of calomel.

We once remember a case of melancholia in a girl brought on by her perplexed self-condemnation in fearing that through indecision, she had seemed to connive at a father's immoralities. This led to the common delusion of the unpardonable sin,—a delusion which, in itself, throws no light upon the real cause of remorse and perplexity. In this case, the precise etiology having been unravelled, removal of the patient from supposed responsibilities, effected a cure.

Treatment of the symptoms of mental diseases is subject to the same doubt that overhangs the symptomatic treatment of ordinary bodily diseases. We are generally unable to tell how far palliation of symptoms really modifies the course of the malady; or, in acute cases, shortens its duration. In the doubt, however, the attempt at palliation is always to be urged. The symptoms most prominently demanding it in the psychoses, are: psychic pain, in its various modifications of simple depression, gloom, apprehension, terror, remorse, irritability, excitement in all degrees, from simple exaltation to raving mania; perverted impulse; hallucinations of senses; delusion of ideas; exhaustion, as manifested either by apathy or incoherence. The risks of mischief, homicide, or suicide, cannot be called symptoms, but incidents to moods which are symptomatic of the disease. The bodily conditions which characteristically accompany the morbid mental states, are not the cause, but simply the physical aspect of the latter. They sometimes serve as useful guides to somatic medication; as the various marks of physical mal-nutrition, which often coexist with melancholia, will then indicate the necessity for rich food and certain tonics. In mania, however, indications furnished by physical appearances would often mislead, as they have misled, to a supposed necessity for depressing treatment. It is in etiological, and other considerations, that we have learned to discover cerebral mal-nutrition in the brain of maniacs; and to recognize that cerebral hyperæmia is nearly always secondary, and the result of vaso-motor paralysis.

Into the question of treatment of these conditions by drugs, we do not here enter. We are probably only on the threshold of an inquiry into the value of many agents capable of most subtle action on the nervous tissues. We cannot refrain, however, from a passing notice of the strange misconception, which at present leads so many English alienists to discuss opium, merely as a means of "chemical restraint." The French and German advocates of opium medication rely upon it, not to restrain excitement,

but to act on the perverted nutrition of the brain. That food, when nutritious, palatable, agreeably administered, and really digested, is the most powerful sedative and hypnotic; and that hydrotherapeutic treatment, deprived of its ridiculous pretensions as a moral agent, is a powerful nerve tonic, and, as such, often required, are propositions which, though practically often neglected, are not theoretically disputed. Upon them we need not now dwell.

Returning to the moral aspect of the case, we find at the outset the question of palliation of the so frequent symptom, moral depression. The method of palliation depends on two psychological principles, — on the effect of companionship, and on the effect of diverted attention. In certain grades or periods of disease (as melancholia attonita), neither will avail. But, in innumerable other cases, a watchful attendant would discover opportunities for intervention; would feel that the patient instinctively craved the firm and hopeful contradiction of his terror, — or, at least, in the agony of nightmare, was reaching out blindly for the comforting pressure of a human hand. The air of relief and astonishment with which our unhappy victim of melancholia will sometimes greet the voice or touch that recalls him from the hobgoblins of his disordered fancy, proves that he is susceptible to the soothing influence. Among such soothing influences it is rather strange that the traditional fame of music does not lead to its more frequent employment as a palliative in melancholia. It subtly penetrates the feelings through the sense most closely associated with them, at the times when the sense of sight seems clouded to the outside world. It has, unquestionably, a powerful influence in changing the mental mood; and the more so, the more it is purely instructive. Perhaps, one day, for the same reason, a more refined therapeutics will add to music the impressions of systematically combined odors — at least, for naturally sensitive organizations.

Diversion of attention is only possible in the milder shades or moods of melancholia, or in the melancholy fits of hysterical or delusional insanity. But, as these are very numerous, the occasions for trying the method are very frequent. To be of use it must be minutely and intelligently individualized. Occupations must not be forced on the patient; he must be watched for the least sign of interest in this or in that, and the clue followed up at once.

In many cases the principle guiding the choice is that of selecting objects which are fitted to make lively and brilliant impressions on the senses. It is by inarticulate musical sounds the sense of hearing is to be appealed to when the patient cannot be roused to exertion; it is by the sense of sight, particularly by appropriate combinations of color, such as are presented by the kindergarten occupations, by embroideries with brilliant wools, even by

childish paint boxes, that at another time, when less profoundly immersed in gloom, the same patient may be beguiled from himself. In other cases than these, the forced attempt at cheerfulness, even the bright colors, would increase the irritation of the patient. An artist in feeling and color would learn how to adjust the surroundings precisely to the mood. In some cases the patient must be left for a while to the darkness and solitude he craves. In others, compulsory exercise in the open air may have an effect analogous to that of a brisk walk or ride on horseback, in driving away the blues from a person not reckoned insane. The hyperæsthesia which so frequently exists, and is so frequent a starting-point of hallucinations, affords scope for much ingenuity in modifying sense impressions or in nicely adjusting the sensitive media. Undoubtedly this necessity may vary with the original delicacy of the sense perceptions, and with the training they have received; but, on the other hand, in virtue of the hyperæsthesia, original differences are lessened. The trifling circumstances which often determine hallucinations, or at least fix their definite form, suggest that a persevering ingenuity might often find the means of modifying them.

The symptom, irritability, does not always require soothing treatment. A well devised distraction, sometimes an energetic scolding, almost always, when the physical strength admits of it, brisk exercise in the open air, are far more suitable. The irritability of hysterical conditions is aggravated by petting and solicitude. Irritability always means the tension of nerves overcharged with impressions which can find no issue in movements or actions. Movement is the physiological remedy for irritability. It is the remedy sought by nature in the higher grades of irritability, where the patient is no longer conscious of the tension, in maniacal excitement and mania. On scarcely any point has recent discussion throughout the civilized world been more abundant and fruitful than this. It has been well established that mental excitement is necessarily aggravated by bodily restraint, and tends, on physiological laws, to calm itself by bodily violence. Ingenuity has been well expended in divising primitive, violent, and rhythmic exercises for periods of excitement; or in facilitating the running, leaping, gesticulations, to which the patients naturally abandon themselves. The destructive tendencies, which are matters of quite secondary importance, are to be provided against by any thing but the naive and childish expedient of tying the patient's hands. "The maniacs," observes Krafft Ebing, "who destroy every thing and pull their clothes off, may be allowed to run about naked in a well-warmed room, with hay or horse hair for covering when they feel the need of it!"

Treatment of delusions is a very difficult problem, and, as it would appear, by no means solved by the best authorities. No one now believes with Leuret that it is desirable to order a patient

to surrender his delusions, under penalty of a ducking from the shower bath. However, firm but rather indifferent contradiction is recommended, whenever the patient chooses to bring forward the subject, but argument is disallowed. The great principle is palliation, distraction of the mind by employment on other themes. Such employment tends to wrench the mind away from the dangerous fixity of its preoccupation. An atmosphere of indifference, sharpened by occasional ridicule and contempt, tends to atrophy delusions when these are not too formally systematized, or too deep-rooted.

The question of occupation is indeed the great question of the moral treatment of insanity. But what a question it is, and how little it is answered by wholesale committals to laundry work or lint scraping, to knitting or digging! Rightly understood, it means the creation around each patient of a new world, built up out of his own awakened and directed activities. Whether these are useful or not, is of trifling consequence. They are intended to distract the thoughts from a monotonous train of ideas; to enlarge the obstructed will channels from the inner to the outer world; to restore yet moderate self-complacency, by definite self-achievements in that outer world; to reëstablish healthful currents of social feeling, by the habit of work in common with others. But for these purposes, the work must be accurately adapted to the taste of the patient. It must vary frequently, sometimes every hour of the day. It must exercise the weakened faculties without straining them. It must excite interest, often serve to gratify the passions of emulation, vanity, *amour propre*. It must be for each case, a minutely studied, philosophically planned prescription, carried out by means of such patience and ingenuity on the part of the attendant, as should combine the tact of a nurse, of a teacher, and of a mother with her child.

Space, of course, fails to indicate the occupations possible, I do not say for insane asylums, but for the insane. The analogy of the mental state with that of childhood must never be forgotten; and toy stores might often be ransacked to advantage. There is an essential difference worth noting, however, between games and occupations proper; the latter alone result in a tangible product. This tangible product is very important. In certain cases, as during convalesence from acute dementia, the heaping up of stones into definite piles, may be an useful occupation. At the other extremity of the scale, among educated patients, studies in natural history may be fragmentarily pursued, at least on the concrete side of making and classifying collections of natural objects, for the sciences of botany, conchology, mineralogy, and the like. In other cases, the pursuit of accomplishments, music, painting, embroidery, is perfectly feasible. It has been found possible, in an asylum for the uneducated insane, to open a regular school for elementary instruction in reading, writing, arithmetic, etc. But

the varied and delightful occupations afforded by farming, horticulture, and fruit culture, should be the fundamental employment for the insane, as for neurotics. At present these are scarcely utilized, except when a motive for economy stimulates the languid interest in the possible therapeutic efficacy of such measures. And for women, the larger class of insane patients, they are not utilized at all.

An element of moral treatment which must be combined with all others, consists in the ascendency over the mind of the patient which should be obtained by his personal attendant. This is required for the most different purposes, of which obedience, for the sake of convenience, is only one. It is a good thing for an insane mind to feel itself commanded in its weakness by a sane one. It is good that it become accustomed to rely upon guidance, —submissive to direction,—afraid, if need be, of certain punishments. But how carefully must these be arranged? The discipline must invariably be that which would be judiciously adopted for refractory children, as remote as possible from the idea of criminal discipline, with which in asylums it is too often half consciously associated; equally remote also from the irritating mixture of scolding and compliance, which is apt to surround patients in their own families. But to make this reliance on direction worth anything, the guide must have fertile and abundant purposes to be carried out. It is again the attitude of a child to its mother that alone furnishes the standard of comparison. A habit must be bred in the patient's mind of instinctively turning to his attendant to ask what was going to be done at this hour, and this, or, at least, of expecting something to be suggested. The healthy mind becomes thus the permanent source of activities that may gradually quicken the benumbed faculties of the sick one.

Palliation of mental symptoms is to be aimed at as much as possible, for the same reason that we try to palliate the symptoms of fevers or other acute diseases. It is always to be feared that the mere continuance of a morbid function may result in collapse by destruction of its mechanism. The same danger of exhaustion is imminent in the transition periods of mental disease, and renders them so critical. It is not the breaking down of the body which is then to be feared, but the collapse of the delicate mechanisms which serve the mind. They may be really destroyed during the acute stages of the disease, or their functions, unawakened from long torpor, may be allowed to sink into extinction. The danger of quietly drifting to dementia has been pointed out by more than one observer.

For this reason, a patient arrived at a period of mental exhaustion, as indicated by apathy or by incoherence, requires to be watched with the most minute care. The faculties may awaken; they may sink into endless torpor. To prevent the latter calamity, the indication is to approach each faculty with a suitable stimulus

in just sufficient proportion. Simple sense impressions should be first awakened; then combined; reminiscences cautiously aroused; ideas gradually excited. It is at this time that change of scene, rather frequently but not too hurriedly repeated, is most important. Too often is the change merely made, when at all, from one room in the asylum to another; or, with another extreme of violence, from the asylum brusquely back to the family. The importance of nicely graduating the transitions is much insisted upon by authorities.

From the standpoint of the foregoing sketch it is pertinent to inquire how far it can be possible, with the best intentions, for any such minutely individualized treatment to be applied at an asylum with a population of several hundred patients. Is there any security that even their bodily diseases can be efficiently attended to? And yet, if an insane patient is to be treated at all, it is difficult to see how any thing short of this minute individualization can be worth speaking of.

For many cases there seems no good reason why the treatment of a mental, as of a physical disease, should not be best carried out by a private physician, seconded by an intelligent and specially trained nurse, assuming, of course, that both could be found. Two exigencies, however, necessitate special arrangements: provision for states of excitement, and provision for the occasional association with a certain number of other persons undergoing the same moral treatment. Is it not possible that these might be met by some such arrangement as the following: Groups of detached houses, varying in size with the district they supply, but always in the conntry, should constitute species of colonies. In these, patients might be placed temporarily by their own physicians, who, in consultation with the resident, would continue, when desired, to retain the control and management of the case. This would provide for the individual care, rarely obtainable except in private practice; also, for the frequent changes in the habit and regime of the patient, which are needed to prevent disastrous routine. At the same time could be obtained the moral discipline needed for employment, drill, gymnastics, etc, which is hardly possible except with selected groups of patients.

DEBATE ON INSANITY.

Professor HARRIS: It is clear that man uses corporeal senses as instruments with which to learn the external world. Nerves are the avenues of sense impressions. Nerves receive impressions from the external world, and the mind infers the properties and qualities of existence from the character and quality of the nerve impressions. Now it is obvious that, besides sound, healthy nerve

function, there may be diseased function. In case of disease the nerve may be sensitive to its corporeal environment as well as to the external world. The lesions of diseased nerves will seem to the mind to be impressions from without, and will be interpreted as perceptions of external existences; thus, severed limbs often seem to be felt even in the lost extremities, because the nerve is affected at its end in the stump of the amputated limb. These lesions of diseased nerves will, most likely, be more vivid than in healthy nerve-action; and will be interpreted as perceptions of more vivid realities. They will apparently reveal to the mind a world of distortions, hideous forms, threatening the safety of the person thus diseased. This person will thus be *insane*. His sense data do not reveal facts, and hence he acts on wrong premises, and acts absurdly, in reality, although very rationally in view of what he sees to be the reality. Insanity of this kind will pass away when the nerves of sensation are made healthy.

Not only is the sense perception conducted through corporeal organs in its first perception, but former perception is also recalled by means of corporeal activity which is caused, more or less, by the excitation of the will. Recollection is, like sense-perception, a seizure of a direct, immediate, particular fact or object, and not an apprehension of something general or universal. Not only can the effect of a former lesion on the sense organ be renewed at will, through the act of recollection, but, by power of the will, the sense organ may be framed into original shapes called fancies, which seem, when felt to be directly controlled by the will, to be purely subjective. But disease of the brain can also produce fancies not dependent on the will, called "fixed ideas" (*idées fixèes*). These form *hallucinations*, the second form of insanity.

This brain disease may arise from general causes, or it may be produced directly by the brooding of the mind upon an object or event, important to it, for so long a time that partial congestion of the brain organ supervenes, and inflammation causes the image to persist in the mind through most or all of its experiences. A permanent image existing through the mental experience furnishes a sort of axis for this experience. And the mind dwells on that image, and finds the relations of that to all of its experience; in fact giving unity to its experience through that image. Hence the image comes to be attached closely to the personal

identity, and, if the image of a person, may often be adopted as the supposed identity of the person himself,—who then believes himself to be St. Paul, Napoleon, or even Jesus Christ.

In all cases of hallucination, as well as in all cases of delirium, there is primarily a diseased nervous organism, which, instead of being set into activity purely *ab extra*, is organically put in action by the disease on its own account, and furnishes illusions. The soul is rational but its data are incorrect. Insanity, therefore, does not offer any support to the materialistic theory of the mind, but the contrary. If the mind itself were diseased, its categories of causality, quantity, quality, space, and time, would be affected, and it would invert its rational procedures, and omit some phases, and reason incorrectly from data. But of this we have no evidence. The disease appertains to the body, and affects only the data of relation to the external world. From these theoretic principles some results follow as regards the treatment of insanity.

I. The disease of the nerves—inflammation or whatever it is—should be removed.

II. The mind should never be allowed to brood long at a time over objects and events. Diversion is essential to the treatment of insanity.

III. In case of chronic morbid lesion, which produces the persistent presence of some image, there should be attempts to lead out from this image to its environment, and thus to change its being by development of the conception, and development as comes from growth of ideas. The relations should be often canvassed, and the reason encouraged to infer results, near and remote. Sometimes such a lesion would be cured by creating a new one of equal importance by a fright.

The science and art of creating new mental operations should be studied in order properly to treat the insane. These can arise from without, through bodily disease, and within, through self-determination of the mind, which chooses to brood over an image. Both of these methods should be used to controvert diseased brain spectres. From the fact that drugs have the power to produce mental spectres, it has been inferred that the mind is no self-determining entity, but a product of bodily functions. The distinction between sense-data and the process of inference and will, removes this materialistic implication. The sense-data are all corporeal, and may be sound and valid, or may be only delusive, as in case of drug-excitement of the nerves. The mind infers and

wills in view of its data, whether real or delusive. Moreover, the mind through its self-determination, in case of brooding, can even create the disease, which gives rise to hallucination.

Prof. HARRIS's theory of insanity was called in question by Dr. SEGUIN, and the chairman of the session, Mr. EATON, and some discussion followed in regard to the observed facts and philosophic laws cited by Prof. Harris. Dr. CHANNING, leaving this discussion as important, but not within his department, said in substance:

Dr. CHANNING: All persons who heard it must recognize the great value of Dr. Jacobi's paper, as a contribution to psychological medicine. He had not before seen, in American literature, so careful a study of the early phases of insanity. It was characterized by the thoroughness and closeness of observation peculiar to the Germans. In regard to the home treatment of cases of insanity, it would work very well in a small percentage of quiet cases, where no change was necessary; Dr. Jacobi herself, however, emphasizes the necessity of *change* in nearly all instances, and this brings us at once to look at the practical side of the question. The vast body of insane persons are practically paupers; that is, persons who can pay nothing toward their own support. They are a burden on the State. Now the State cannot place them in small private institutions, where the treatment most closely resembles that of home; neither can it send them to the large private hospitals; for at both these places the expense is too great. The only alternative, therefore, that remains, is to give them the desired change by placing them together in large State institutions, under the best possible management. This general principle for the pauper class must obtain through all time, but for the rich and middle classes, a more varied arrangement will be possible. "In my own experience," said Dr. Channing, "I can hardly remember a case of melancholia where it seemed advisable to treat the patient by leaving him in bed, unless the degree of exhaustion was very unusual. Melancholiacs are generally so profoundly buried in the *ego*, that continual efforts must be made to stimulate and hold their attention, and to bridge over the fatal period; when, if left to themselves, their identity is lost, perhaps, never to return; and it is at this time that physical exertion is most important, modified, of course, to suit the circumstances of each case."

Dr. Channing, also, submitted the following letter from Dr. Hamilton, of Mobile, Alabama:

MOBILE, Aug. 19, 1881.

WALTER CHANNING, M. D.

Dear Sir,—Your note containing an invitation to visit Saratoga on the 7th of September, and take part in the debates of Health Department, reached me this morning. In reply, I am sorry to be

obliged to say, that my professional engagements are such, that it will be utterly out of my power to be present on that occasion, as I am well aware, very much to my loss. I am glad to see by the programme, that the question of temperance, in its legal aspects, is to occupy a good part of the time and attention of the Department of Jurisprudence; and would be glad to see the same subject, from the medical point of view, taken up and examined exhaustively by the Department of Health. The question of inebriety, its effects, and proper mode of treatment, is, to my mind, *the* great and important question of the day; it underlies many of the important subjects, that engage the attention of the Social Science Association,—notably the questions of insanity, pauperism and crime.

I had, a day or two since, the pleasure of reading the report of Dr. Bancroft, superintendent of the New Hampshire Insane Asylum, to his trustees. I was much pleased with some ideas he advanced in regard to the difference in treatment required in different cases; he argued that there was as much difference in the character of the insane as in the sane, and that to be successful required a careful study of each individual case; that there should be a great deal of attention to their surroundings in reference to association, &c.,—not mixing the ignorant with the cultivated, the gross and obscene with the refined and pure; and he is making an effort in the construction of the buildings and surroundings to carry out his ideas. At this time it is too much to expect that in large public institutions this can yet be carried out; but when we recollect what the condition and surroundings of insane hospitals were some fifty or more years since, and the treatment of the poor demented sufferers, and then look at the progress that has been made, the humane, Christian influences that surround and comfort them today, we may well be hopeful, ever striving to press on to higher and higher excellence.

J. C. Hamilton.

Mr. Sanborn said, that he entirely agreed with Dr. Channing concerning the value of the elaborate paper just read. As a theory of incipient insanity, with practical suggestions for the prevention and the early treatment of this great evil, Dr. Jacobi's treatise stands almost alone in the American literature of the subject; and reminds us rather of those exhaustive German studies with which she has evidently been so familiar. He should incline, however, to the theory of insanity so acutely stated by Prof. Harris, in the points where it varied from Dr. Jacobi's. His own attention was daily called rather to the practical treatment of established cases of insanity than to any theory of the disease, however philosophical. In respect to the suggestion that the insane asylum was not the best place for insane persons of every description, he quite agreed with the paper; but, on the other hand, it should be consid-

ered, that, for the great majority of cases, as Dr. Channing has said, there is no other practicable place of resort than the insane hospital or asylum. It would be found quite impossible to carry out in more than one case in twenty, at present, the suggestions as to private treatment which the paper contained; because the pecuniary means available in most cases would not permit it. It is true, as Dr. Channing has intimated, that nearly or quite three-fourths of all our insane are practically paupers, and that the property of those insane persons who are at first self-supporting is rapidly diminished by this very condition of insanity, and the expense which it involves. Yet the paper would do great good in calling attention to what is possible in the most favored cases,—and what will become more and more possible for all, if the subject is carefully studied in the direction pointed out by Dr. Jacobi.

[The General Secretary prints below, as bearing directly upon the subject treated, the full report of remarks made by Miss Margaret A. Cleaves, M. D., at the Conference of Charities in Boston, July 25, 1881. A report of her remarks printed on pages 27 and 28 of the Proceedings of that Conference, which have been sent to the members of this Association, did not receive the final corrections of Dr. Cleaves, and it is therefore due to her to furnish the members of the Association with a more exact report; which is here given.]

DR. CLEAVES ON THE TREATMENT OF INSANITY BY WOMEN.

It was not my intention to say anything, at this time, concerning my work at Harrisburg, or the movement in which I am interested, and I would not now, had not Mr. Sanborn called upon me. I feel that I have been engaged in the work for too short a time to formulate my opinions, or demonstrate the success of women as physicians to the female insane. This, however, I am prepared to assert,—that my experience of now nearly eleven months, has fully corroborated the views which I expressed before this Conference of Charities, at its meeting in Chicago two years since, viz., that diseases peculiar to women exist in a large proportion of cases among insane women in our hospitals. I have never yet missed finding the special trouble in the case of any patient whom I have made the subject of investigation, and, during the past ten months, with an average of about two hundred patients, I have treated at least fifty special cases. These could only be relieved by special treatment, which, because of the mental condition of the patient, could best be given by a physician of the same sex.

In several cases mental recovery ensued where it was believed

by the male physician (who knew the cases well before I assumed charge of them), that they would not have recovered without special treatment. Their mental recovery was directly traceable to recovery from the local trouble. Others have undergone decided mental improvement as a result of the improved or recovered local condition, while in others the result has only been to relieve the local trouble. I do not think that we are to witness any marked increase in the number of recoveries from this cause, but I hold that, no matter what the result, it is the duty of physicians to the insane to relieve or remove, if in their power, every physical disability which may exist.

In answer to the question to which Dr. Bennet refers in her letter to Mr. Sanborn, I also answer in the negative. Insane women can be as readily controlled by physicians of their own sex as by men.

I am confirmed in the opinion (which I have held for some time) that there is plenty of work for women as physicians among insane women. The question is, what shall be their position in hospitals. My experience has convinced me that it must be one of two, viz., either as assistant physicians, or in control of separate hospitals for insane women. It is an unfortunate, but at the same time a well recognized fact, that there are very few hospital superintendents, at present, who would give to a female assistant the opportunity, unhampered, of doing all that exists to be done for insane women by a physician of their own sex. Were there always men in charge, who would cordially work and coöperate with them, then the question would have reached one satisfactory solution. That not being the case, the alternative is, it seems to me, to place insane women in separate hospitals under the exclusive control of physicians of their own sex. I fully agree with Mr. Sanborn and also with many others, that an institution to be successful can not have two heads, much less three.

At Harrisburg, there is a superintendent, who has charge of all general matters (attending also to the legal admission and discharge of female patients), and who is the physician-in-chief of the male department. I have the entire medical control of the female patients, and all that that necessarily involves in such an institution. There is also a steward, as in the ordinary hospital organization. At Norristown, there is a physician-in-chief of the male department, and a physician-in-chief of the female department, whose position and duties are identical. Then there is the steward for general business, while the executive power rests with the Board of Trustees, who, thus far have taken an active and intelligent interest in the institution. If they continue to do so, I doubt not that the success of the institution will be insured. I believe our organization at Harrisburg to be wrong, because of its duality, and I should regret seeing another hospital organized on the same plan. Despite our dual organization, however, it has

been our constant effort to preserve the unity of the institution. Dr. Gerhard, the present superintendent, has, by his generous and untiring efforts, contributed largely to this result, and also by his cordial coöperation with me in my work, rendered me valuable assistance. His best endeavor has been given to the advancement and success of women's work in the hospital at Harrisburg. Yet the plan of organization is a wrong one, and while it may be successful in exceptional instances, it should not be adopted generally, for in it are the very germs of failure. The matter of separate hospitals for insane women, under the exclusive care of women physicians, has engaged my attention quite a little of late; and the larger my experience the more am I convinced that in such separate organizations, under their exclusive control, women will develop their highest and best usefulness, and attain to the completest success in the care and treatment of insane women. A woman never does her work as a man does. It must always be done in a woman's way; hence she will have her best chance to do it well in separate hospitals. The establishment of these can only come about very gradually. There are comparatively few women as yet in the medical profession. Of those who study, quite a number never practice, and again but a small proportion of these are calculated for physicians in insane hospitals. As is right, most women will marry,—for after all it is in marriage and domestic life that women reaches, or should reach, her highest and truest happiness. Women who are to be physicians in hospitals for the insane, must give up all else for their work. If they are to make it successful they must give to it every effort, their highest and best endeavor, which is only possible with undivided purpose. After a longer lapse of time, I shall be better prepared to say whether my work at Harrisburg, or the work of women in hospitals is to be an assured success. I recognize the fact that it is yet but an experiment,—an experiment however, which I believe to possess inherently the quality of right, and consequently the seeds of success. As yet, I feel that we have done but little. Whether we shall ever attain our grand ideal, time only will reveal.

PAPERS OF THE SOCIAL ECONOMY DEPARTMENT.

I. HOMES FOR THE PEOPLE.

A REPORT BY ROBERT TREAT PAINE, JR., OF BOSTON.

(Read Friday, Sept. 9, 1881.)

The subject of "Homes for the People," is one of transcendent importance, not only to the masses of the people to be housed in them, but to the whole body politic. Nothing else has so close, so constant, and so influential a relation to the welfare and prosperity, the health, morals and character of our working classes, and especially of their children. Nor is this subject one merely of sentiment or talk. It is very practical, and this because so much can be actually done, and is being done;—

I. Not only in the way of model tenement houses, to benefit a few fortunate tenants,

II. but to raise the standard of public judgment, which creates and guides boards of health and both compels and aids them to exact more rigid compliance with sound sanitary rules by owners and landlords of tenement house property,—a class, which if it includes some Octavia Hills, is far more often too reckless of health and avaricious of gain.

The Board of Health, in Boston, responded to the request of the Associated Charities, with a prompt and cordial promise of aid whenever asked, and desired all our visitors to inform them whenever they found any tenement needing action by the Board of Health.

III. The renovation of the thousands of tenement houses of our cities demands unceasing and increasing care.

Old houses sink into decay, where neglect by tenants as well as by landlords, makes them often too foul for human life. Charitable workers everywhere discover that foul homes are a source of crime and degradation, which it is hopeless to contend with. The latest discussion of the charitable system of a large city falling under my eye is by Rev. E. R. Donehoo, well known as the head of the private relief system of Pittsburg, who writes, August 15, 1881:

"Give a man good wages, and then oblige him to live in a filthy hovel, such as are found in any part of this city, and you may confidently calculate on making him, first of all, improvident, then intemperate, and, last of all, a miserable pauper."

This judgment, and like facts, are true of all our great cities. I will not try to state any methods by which this fatal current may be checked and a reform compelled; a matter of infinite importance, or all our charity work is vain, and our prisons insufficient and our hospitals too small and few. But I ask the judgment of this Association, whether any measures are so important for the very *lowest* classes, as those which will compel renovation and purification of the low tenement houses of cities, inhabited by the most wretched of our people. If this be true, then every good citizen may well devote a part of his best thought to see what practical action is possible, and how it can be effected, so that reforms may be enforced before it is too late. At some future meetings of this Association, I trust we may gain valuable knowledge on this subject.

In large cities, many workingmen of sterling character and thrifty habits, are obliged to live near their work where houses are too costly for them to own, so that they must perforce be tenants. It is for this class that efforts are made by philanthropic business companies in London, New York, Boston, and other places, to furnish healthful and attractive tenements in model lodging houses.

The experiment of the Improved Dwellings Association of New York will be watched with deep interest. They are building and will soon complete three blocks of houses covering about an acre on 71st and 72d streets, and First avenue, and containing besides twelve stores, 200 tenements fitted with conveniences for housekeeping. They aim not merely to benefit the fortunate occupants, but hope to show that well built tenements are a good investment in New York, as Sir Sydney Waterlow has demonstrated in London, and so to influence the investment of capital in this direction.

A paper on this subject some years ago, gave an account of the work in Boston of taking charge of the biggest and worst tenement barrack there, cleansing it and subjecting it to the good influences of a kind agent under interested gentlemen and ladies, and of the gratifying results upon the character of its occupants. Another like effort has come under my knowledge this past year, conducted by a wise and benevolent lady, with marked success, not only as a business, which is always important, but also in gaining and exerting a wonderful influence over tenants, of the lowest classes, degraded in all the relations of life.

I have here the report of a lady placed in charge of some large tenement house properties, in the worst section of New York, belonging to a Society, which takes them with the benevolent aim, not only to renovate them, but to prove how much may be done to help even drunken and degraded tenants to a better life. This also, is a successful business operation. A few extracts will show the missionary spirit in which Mrs. Miles has taken up this work, and what she has achieved:

Extracts from Letters of Mrs. N. Miles to R. Fulton Cutting, March 11th, 1880.

Mr. Cutting and a friend visited the "court" with me, yesterday. Mr. Cutting was thoroughly disappointed, and so was I (but agreeably so), there was really so little left of the "Gotham court," as you and I had seen it, a month ago. In house "B," you will remember the shattered windows on the first floor, and the dreadful room, in which Mrs. Burke was, also, Mrs. Moore, Mrs. Sullivan, and the woman McGuire,—Mrs. Burke, who had not been sober for six weeks when you saw her, on the day of her baby's funeral; you will also recollect a curious bundle in the corner of the room, which, upon investigation, proved to be Mrs. Burke, who is since dead. She promised the priest and myself, upon our visit, that she would drink no more; the poor thing was faithful to her promise, and went to the hospital, where, doubtless, the sudden total abstinence hastened her death. The neighbors say, "God's blessing will be upon me, because I was the means of her dying *sober*."

That the people have been lifted and morally elevated in the course of the year, there can be no doubt. Your remark upon the occasion of your visit, "Where are the poor people?" was to me the most satisfactory proof that this result had been obtained. That they have never grown restless under the constant supervision, my knowledge that on several occasions my people had been offered rooms at *less money*, but preferred remaining where they were, and the fact that Mulberry street (where the rule is *more* stringent) has now never a vacant apartment,—are all proofs positive to me, that these people do appreciate this movement in their behalf. As a missionary, I have at all times been a welcome visitor, and they are always ready and glad to hear "the word;" and, when trouble comes to them, I am the first one to whom they apply. When I consider that I have the oversight of 176 families, and from fifty to sixty mothers of my nursery children, 100 children in our Harlem Mission School, from thirty-five to forty in my gospel meetings, I am perfectly surprised at the *very small* amount of temporal aid for which I am asked; this is to me another proof that the result of our work is a good one. Inasmuch as

now, if any are compelled to ask me for assistance, they do it shrinkingly, and not as before, demand it as a right.

Since February 1st, the Scammel street property has claimed almost exclusively my personal supervision, and I trust, not without effect. The place, I am told, has improved vastly in the last year; not as many loungers on the corners, less destruction of property, and the inmates are more tidy in their homes; all speak highly of the efforts of Mrs. Miles for their good; her uniform kindness and her generous sympathy; many of my visits have been as a missionary; I hope in this way to gain their confidence, and ultimately do them much good. I am known among them as Mrs. Miles' lady; I have been enabled to get work for two boys, and taken one to the public school. I went to see the model tenement, "The Monroe," very fine exterior, rooms small; fifteen tenants, one of whom they have been obliged to eject already. Some very dirty stairs and a *lager bier* saloon, renting for $600.

Extracts from Report of Mrs. N. Miles, to R. Fulton Cutting, November 4, 1880.

"As soon after taking the 'court,' as I felt I dared, I forbid any child going for beer, or other stimulant; for months, this required constant watchfulness, and, day after day, during the intense heat of the summer, I never left the court until after one o'clock, so that the rule might not be broken during dinner hour. I have several times gone to the saloon with the child, put the can of beer on the counter, and warned the proprietor not to repeat the offence; shortly after, the father would come quietly down the alley and get the can of beer himself. I invariably met him, and in no single instance, did they dispute the justice of my act. One father, when the child came back without the beer, jumped up in a rage, and was going to say terrible things to Mrs. Miles; he came into the office like an angry bear, and left it, as he told Dr. Miles, with tears in his eyes.

"When last Mr. Cutting went with me through the court, he remarked, the appearance of the people seemed changed; the improvement is much more perceptible now; we have not had a fight of any kind for three weeks, and very little unseemly or loud talking. This improvement, I think, is attributable to several causes: 1st. An answer to earnest and constant prayer. 2d. The influence of summer excursions. 3rd. Their appreciation of medical attention and comfort when necessary. 4th. The prohibition to the children bringing stimulants, and, 5th. Constant personal influence and intercourse with them. Our laundries have been of incalculable benefit; there had never before been so much bedding washed as during the past summer; the mothers and children were allowed the free use of the tubs for bathing purposes, which privilege they gladly accepted. I conscientiously believe there is *no lower* class of people than some of those with whom I have been in con-

tact in Gotham court; notwithstanding, it is quite noticeable that the tenants generally are much more cleanly in their habits (although there is, of course, still great room for improvement). We shall open an Industrial School in the court on Saturday, 13th inst. Three ladies from St. Anne's Church, Brooklyn, have kindly volunteered to help me. I feel that this will be a great adjunct to our work of improvement. That the court is much quieter at night there is little doubt; one of the women said to me recently, 'It is getting just like the country, and hard working people can sleep now.'

"In the Scammel street property we have fifty-three families, as against thirty-two, when we took possession; the highest rents being $10, the lowest $6.50. During the time I have had it only four of the old tenants have left; one, whose business moved up town, one because I was so 'particular,' one wanted more room and one for cheaper rent. Several have come, stayed a short time and left again, for various causes; the majority of the tenants, I can safely say, have steadily improved; a few have made spasmodic efforts, while one or two stand still. What we have most to contend with in Scammel street, as in Gotham court, is the *outside rowdyism*. You will scarcely credit it when I say some of the 'Border gang' made application to me for one of the vacant stores for a club-room. They have taken rooms opposite, but from even these I have not so much to dread, as from the 'ragamuffin boys,' who are perfectly lawless. I have *no protection* for the property, whatever, from the police; they laugh at the depredations committed, sometimes under their *immediate observation*.

"I find the Italians a well ordered, gentle and obedient people —not nearly so dirty as the low Irish, and prompt to the day in paying the rent. You will doubtless recall the ill reputation of the locality in which these houses are situated, and yet they stand, amongst all those rough characters, unmolested and uninjured. The door is locked never later than 11 P. M., and always shut during the day. I constantly feel the need of *many more* just such houses for the very poor."

I regret that Mr. Alfred T. White is not with us to report progress upon his admirable work in Brooklyn, of "Improved Dwellings for the laboring classes," with their 269 tenements, and a population of 1095, of 16 nationalities. He writes:

The main changes of the year are an extraordinary gain in the Scandinavian element, and a drift toward humbler condition or occupations of tenants. In bad times, large numbers of clerks, etc., sought our rooms. Now they find means to hire separate houses. We have more laborers,—fewer artisans. One-eighth of our apartments are let to widows and single women; the accommodations are thus shown to be within the reach of all. Our

buildings earned last year 14 per cent. on their cost,—equal to fully 12 per cent. on to-day's cost to replace. This is ample to secure 6 per cent. dividend, and to continually improve the buildings. It is, however, in my judgment, a more propitious time to build small houses than large tenements, while the *good* times hold. It is always best to build the *best* that can be let freely to the thriftiest of the working classes,—then the poorer and less thrifty move up to take the vacated places, and the change is made for all,—the maximum result for the minimum effort. I wish our New York State laws allowed the formation of Loan and Building Societies on the Philadelphia plan. I believe such societies could now be organized and thrive.

IV. The worst of the rotten tenements of a great city raise a more difficult problem still. They are inhabited by the class who have sunk to the *very bottom*, and propose to stay there; some who have lost hope, some who never had it, victims some of their own shame, some of their misfortunes, types of pauperism in all its sad phases and of all ages. These are the occupants of the vile slums which are beyond repair or renovation, and where nothing will answer but total destruction. No. 7 of the Charity Reform Papers of London, about Dwellings of the Poor, thus begins:

The evil sought to be remedied by a long course of legislation is the living of the poorest classes in dwellings, which are in a state unfit for human habitation, and thereby inducing disease and excessive mortality, and producing pestilence which spreads beyond such dwellings.

For these worst tenements, nothing will do but utter destruction. Dr. Gairdner, Medical Officer of Health for Glasgow, wrote on this subject:

I believe that nuisance removal, epidemic inspection, cleansing, ventilation, and suppression of over-crowding, are all good up to a certain point directly, and perhaps still more good indirectly, by the mere fact of their indicating a desire on the part of the authorities to help the helpless; but in relation to the persistent and slowly-accumulating evils of our great towns, the social rottenness, so to speak, that is in them all, these are mere surface measures. I am also of opinion, and this opinion is based upon experience, that mere extension of house accommodation for the laboring classes, were it ever so well framed, will not do, for this reason, that you cannot build cheaply enough for those classes who constitute the nuisance-breeding and disease-breeding classes, and whom it is impossible to attract into better houses, *so long as their old and bad houses remain*. Besides, the operation is far too vast

for any private or public machinery to undertake. . . . I am putting it roundly, perhaps you will even say paradoxically, but I am stating the result of a deep conviction, when I say that the *destructive* part of the duty of the authorities is of more importance, if possible, than the constructive, — that the first and more essential step is to get rid of the existing haunts of moral and physical degradation.

For all these foul abodes, nothing will do but entire destruction. The Tower's Acts in England (1868), and the Artisans' and Laborers' Dwellings Act of 1875, have led to the wiping out of some of the worst evils in London, but at such extraordinary cost as to forbid further action till better legal machinery is provided. Whole districts have been cleansed by this process of destruction in Glasgow, under like laws, but with far less expense. The nearest approach in the United States to this wholesale treatment which I know of, was in the raising of three large districts in Boston, where houses were low and damp, and many of them rotten. Here also the expense was so heavy that the example is not likely to be followed. I earnestly ask the thoughtful study of good citizens,—what powers can be found and exerted to compel the destruction of tenements unfit for human habitation.

V. Measures different from these are needed to help the classes *above the lowest*. None can be more useful than those which enable them to own their own homes. The main purpose of this paper is to call attention to the system of coöperative savings and loan associations, which have now been growing up in Massachusetts these last four years. Of course they are not new in this country, nor is the topic new here. They are the Philadelphia associations, so long and so well known there, and which have blessed that city with its 140,000 homes, and its thrifty population. So that the only wonder is that its marvellous success there has not led all our States to follow its example. Papers on these associations have been read before our Social Science meetings four and five years ago. Still they have never received the notice and study they *merit*. The fact that they have been introduced into Massachusetts, and have gained a strong-hold, and are achieving excellent results, deserves to be stated, with some little explanation of details:

1. After three years' consideration, a full and careful general law was passed in Massachusetts, ch. 224, of 1877 (slightly amended by ch. 271, of 1881), under which these associations

easily organize. This law is based on the experience of Philadelphia, but we think it is more carefully guarded, to protect and make plain the rights of all. It is impossible for these associations to exist in any State without the sanction of statute, and it is unsafe for their members unless the statute is drawn well.

These are some of the points of the Massachusetts Statute:

1. Each member takes as many shares as he or she wishes (not exceeding 25). You are to pay $1 a month on each share, on, or before the monthly meeting. This goes on till all the shares alike (in any one series) are worth $200, when they are of full value and are wound up, and the money ($200) is paid back to you. Usually, one series of shares after another is started every six or twelve months, so that the different series may mature at different times. If no interest were earned it would take 200 months for $1 a month to amount to $200, or 16⅔ years. But, with the benefit of compound interest, 10 years should see the shares worth $200. When business was brisk in Philadelphia, and high rates were paid for money, their shares became worth $200 in 8 or 9 years. Of course, the time will depend on the rates the money earns.

2. Loans are made at each monthly meeting of all money paid in. No interest is lost. The money is offered at auction, and whoever offers the highest rate of interest gets it. The laws provide that the premium bid shall be so many cents a share of interest each month.

3. Loans are only made to members. Of course, any borrower can become a member by taking the needed number of shares at $1 each.

4. The security must be real estate, to the approval first of the security committee, and then of the board of directors. Members often know all about the estate mortgaged, and keep posted as to its value and any changes in it. The shares of the borrower must also be pledged as additional security.

5. Loans may also be made upon pledge of the shares alone, but only to a less amount than the actual value of the shares.

6. Loans are made in small sums,—$50, or any multiple of $50.

7. Loans may be paid back at any monthly meeting, or earlier, with interest to that day, thus giving the borrower a great privilege, and enabling him, if he has borrowed his money at a high rate (say 10 or 11 per cent), to reborrow at any lower rate which he may be lucky enough to get elsewhere, or on any subsequent evening. He must pay one month's interest twice, and the charge for new papers.

Observe especially these three provisions:

8. *No forfeiture* of your money paid in is possible, in the case you cannot go on. You give a month's notice and withdraw it. If you do not withdraw, and cease to pay, the fine is two cents a

month a share. Of course, if you cannot go on paying, you should withdraw. The fines only continue six months, after which the shares are put on a retired list, when you can withdraw the full value less fines.

9. Borrowers are guarded against error or fraud in paying large premiums to be deducted from the loan. The only possible premium is in the rate of interest, settled by the rate bid, and running till the loan is paid off.

10. All profits and all losses must be shared by all the shares in proportion to their values.

Let me call attention to the advantages of these associations:

(1) To the investor.

(2) To the borrower.

(3) To all the members.

11. For the investor, the profits in the associations are larger than any other similar safe investment. They were 8 per cent. for the two years 1879 and '80 in the two older Boston associations. It was a marvel what rates of interest the Boston societies at first got,—8, 9, 10 or 11 per cent. More recently the rates have been about 7½ per cent.

12. For the borrower, *the transcendent advantage of these associations is that he not only may, but must pay off his loan steadily, though slowly.* Here is the grand distinction: Borrow of a savings bank, and you cannot pay your loan till it matures. You make no preparation. You expect to renew it. If all goes well you can and do renew, and so it goes on till something happens, and you cannot renew, and cannot pay, and they enter and foreclose, and you lose your house and home and all you have paid, and are broken down and crushed. What blow is more overwhelming than to be turned out of the house you have partly paid for with some hundreds of hardly earned dollars; and to lose your all! Not so with these associations. You must pay off a part each and every month; a small part, to be sure. Before you borrow be sure you are right; only borrow what you know you can repay by monthly dues. And then you must go on until all is paid and the house is yours. Whoever borrows $1,000 on five shares must pay $5 (a dollar a share) that same night, and so each month must pay $5 of the principle of the debt till all is paid. Of course he also pays the interest each month, which, at six per cent., is $5 more (*i. e.*, $60 a year). If he bids a premium of 20 cents a share, he must also pay $1 on his five shares. Now see. Suppose he bids and gets his $1,000 loan at 20 cents premium. He pays, each month,—

Dues on principal, ...	$5 00
Interest at 6 per cent., ...	5 00
Premium at 20 cts. a share, ...	1 00
Total, ...	$11 00

This goes on till his five shares are worth each $200, when his shares are equal to his mortgage and pay it off, and his shares and his mortgage are all cancelled, and he owns his own home free of debt. He has been forced to save. He has been taught to save. The thought and the necessity are constantly before him. His neighbor may spend his earnings freely, easily, in the hundred ways which cut such big holes in our pockets. But this man and his wife, and his children, too, all are full of the idea of paying up the monthly dues, and so they save their money, and in the end they own their house, and it is free. This man pays off his mortgage. The borrower of a savings bank does not pay his. Here is the difference of infinite importance, of more importance than all else. You own your house. He does not own his. The savings bank or somebody else owns his. In one case you cannot and do not pay off your loan by degrees. In the other you can and must pay it off by degrees. One path leads to independence at your own fireside, under your own roof. The other path leads out doors. This is a good school where thrift is taught with a strong hand.

13. The law also protects the borrower from sudden misfortune. He cannot be sold out till after six months' default.

14. Probably the greatest advantage of these associations is, to the members as a body, in the knowledge of affairs they gain and the habits they form.

The business is done in open monthly meeting, where all members are welcome, and ought to come and see each other, and consult about all common interests. You see who the members are, and whom, not being members, you can induce to join. You see the money paid in and then put up at auction, and who bids, and how much interest is bid. You know what the security is for the loan. The world can show no more admirable school for grown-up men and women to learn the business which concerns them most deeply. Yes, I am not sure that the greatest merit of these associations is not that they bring the members together in constant and friendly consultation. They see, and transact, and consult about, and know and study their own business affairs. Knowledge is power. To make a watch, spin cotton, or bleach cloth, or forge iron, is an art and needs knowledge. But the art of saving money is as hard and as useful as any art I have named. The disasters of ignorance are dreadful. The Ladies' Deposit Bank has brought ruin to hundreds. It is inconceivable how any one could have put money there; yet it is a sad fact. These associations are schools of art; the art of getting ahead.

Here we have a monthly public meeting where all talk over saving in all its aspects; how to save, how much to save, how much to spend, which is worth most, drinks, tobacco, sprees, excursions, rides, frolics, silks, ribbons, show, display, expense, extravagance, or the steady saving, keeping and investing of all spare money, an

accumulating fund, a house, a home, a plot of land of your own, or, if married, a home for your children to grow up in safely, respecting themselves and their parents; a competence, or perhaps almost riches. No American has any right to be poor.

A grave objection to savings banks is that they admit depositors to no share in the conduct of affairs, and teach them nothing. For knowledge how to invest money and accumulate property, is of the utmost value.

These associations are the best adult schools for men and women to learn business that I have seen or heard of in the world. You do not graduate at once here or anywhere else. It is a school for life. Saving your money, investing it safely, seeing it accumulate, watching over it, discussing how best to manage, consulting and comparing notes about houses, size and shape, and cost, and comfort, health and repairs, and shrubs and trees and vines, and values, how to save your first hundred dollars, and how best to make it worth $150 and $200; how to teach and bring up your children to work and save and be steady, how to keep out of and hate liquor shops and all the other costly and deadly allurements of the devil, how to form habits of sturdy American virtue and thrift,—and building up a wise plan of life for yourself, your wife and your children, develop and perfect it into the grand result of home and independence, and competence and character. This is the diploma which, by God's blessing, these coöperative societies, these associations "by the people and for the people," of all who will, uniting and coöperating together, offer to all, with no preference to any.

Is it not true that the prosperity of the masses of the people is not only measured by their accumulation of property, but in fact caused by it?

Certainly accumulation is governed by three factors:

1. The spirit of saving;
2. The power of earning;
3. The means of saving safely.

And all three of these causes of the people's prosperity grow out of these associations more largely than from any other system or influence. Common savings banks offer, indeed, to keep what any one desires to save. But multitudes have no such desire. The contagious spirit and eagerness to save is inspired and fostered by constant contact with those who have already formed the habit and prospered in its exercise.

2d. The experience of Philadelphia, and of the world, may be appealed to, to show that a workman's skill and earning power grow almost in proportion to his resolve to increase his wages. A poor workman, seized with the desire to save and own a house, puts his soul into his work, and quickly learns how to do better work and faster work, and so rises to the top of his trade, and often finds chances opening out wider and higher—till he is surprised at his own success. The spirit of saving has developed the earning power.

3d. Safety of investment is the third essential. Without it, saving is vain, and habits of saving hopeless. At the present time the difficulties of investment are growing grave for all, especially for the rich. Rates of interest are falling, and the competition of capital, in its rapid increase, threatens to aggravate the difficulties and reduce the gains. The art of keeping money and of investing it safely, requires more knowledge than the great majority of people possess, with the single exception of simple real estate. Small lots of land in or near cities, and small houses on them, come so close to the daily experience of all that they offer the safest investment for the earnings of the masses. Costly houses and large stores may rise and fall in value. But nothing is so stable as a small, snug, well-built house on good land, reasonably near to the business of a city, and worth from one to three thousand dollars. They are always in demand, and always worth about their cost, or a little more; and, except after such great fluctuations as followed our late war, growing out of a change in the value of money, the cost of these houses cannot fluctuate much.

Again, where cities and towns are prosperous, and growing in population as in the United States, the demand for these houses steadily grows, thus offering the chance to invest new money safely, and also to find a fit home for a family to live in. The gravest objection to tenement-house life is the poisonous influence which the bad boy or girl or adult exercises over the whole population, crowded together into relations of constant contact and dangerous intimacy. From these evils, no escape is so sure as the privacy of a separate home. Two other evils grow out of tenement-house life—and more closely related to the especial phases of the question which I have been considering. Tenement-house ife leads necessarily to extravagant expense, encourages *rivalry*

of display between tenants in modes of life, and dress and food, and is fatal to the independence necessary to enable workmen, out of their small earnings, to save and lay up a part.

Secondly, tenement houses offer no possible investment for workingmen. They cost many thousand dollars, and are so far beyond the reach of the tenant that he makes no effort to become an owner, and sinks into hopeless content with his sad lot. Small houses offer a sharp contrast to all this. They promote the independence of character and life, which lies at the root of thrift, and they offer the safest investment, easiest to understand, acquire, preserve and improve. Cheap trains and rapid transit are wonderfully increasing the facilities for the working classes to get out into fresh air, and near some open field, for their homes. Every move in this direction deserves encouragement from all friends of the people.

The economy of occupying one's own house rather than being the tenant of another, is a strong and familiar argument. Let me try to illustrate it anew. To learn precisely how much force there is in this, I have secured the exact figures of ninety tenements for the years 1879 and 1880, from a careful real estate agent:

	1879.		1880.	
	Totals.	Per Cent.	Totals.	Per Cent.
Vacancies, ...	$292.00	2.7	$182.00	1.71
Bad debts, ...	1,409.21	13.06	851.30	8.
Commission, . . .	453.77	4.21	482.24	4.53
Repairs, ...	1,067.31	10.	927.54	8.71
Water rate, ...	556.00	5.15	559.00	5.25
City tax, ...	1,223.50	11.35	1,487.12	13.97
Insurance, ...	137.33	1.3	137.33	1.28
Net rent, ...	5,638.18	52.3	6,063.47	57.19
Total rent roll, . .	$10,777.30	010.00	$10,690.00	100.00

	1879. Per ct.	1880. Per ct.
Vacancies, bad debts, commission and repairs are	30.	22.8
Tax, water rate and insurance, ...	17.7	20.4
Net rents, ...	52.3	56.8
	100.	100.

How many tenants appreciate what rent really is? You think it is a fair payment for rooms occupied, — but it is much more. You must pay not only for the rooms you occupy, but a fair share towards vacancies, that is, for the rooms you do not occupy; and also for bad debts, that is, for the rooms actually occupied by other tenants; and of course you pay the commission of the landlord's agent, and you pay for all the repairs which you think the landlord pays for, but which he really charges in the rent to the tenant. Repairs are always a heavy item with a landlord, because tenants learn the art of breaking, wasting, neglecting and, generally, knocking things to pieces. Just the opposite when a man owns his own house. All is kept in order. Paper lasts for years. Water closets are treated with care, and do not run over. Water is shut off, and pipes do not freeze. Nay, further, see how ignorant children, growing up in a tenement house, are of doing the simplest repairs, and then see how the children of an owner learn to do almost everything about repairs on a house. The first acquires habits of ignorant neglect, while the last form habits of care, and gain knowledge useful to them through life.

Thoughtful and tasteful occupants of their own houses in the suburbs can largely enhance the value of their estates by vines, and shrubs, and grass, while the decay in value of houses rented to tenants is proverbial. These items which a good-paying tenant cannot escape, — vacancies, bad debts, repairs and commission, amounted to 30 per cent. in 1879, and to 23 per cent. in 1880, an average of 26½ per cent. This means that, out of two hundred dollars a year rent, you pay fifty-three dollars more than would be needed if you owned and occupied your own house.

A frame house 17x30 with five good rooms can be built above the land for $1,000, and with the land may cost from $1,300 to $1,800 (say $1,600), and will rent for $17 a month or $200 a year.

Deduct tax,	$22 00
water rates,	12 00
insurance,	2 00
	$36 00
Interest on $1,600,	96 00
	$132 00
Balance,	68 00
	$200 00

It leaves a balance of $68 which the tenant would save by owning his own house. Thus calling the last computation theoretical, and the former practical, we find they substantially agree in saving $53 to $68, say $60 a year on a $1,600 house, if the tenant buys and owns it. Now, $60 a year will take five shares in one of these associations, and pay the monthly $5.

'Tis true, 'tis pity, and pity 'tis 'tis true,

that these associations cannot enable a man with nothing saved up to get credit for the whole. That would indeed be kind to him but at the risk of all the depositors, who have the right to insist that their investments shall be perfectly secure.

Take the case of a man who has saved $600 to pay down on his house of $1,600, and borrows the $1,000 on 5 shares, at 7.2 per cent. interest. Ten years carry shares of $1 a month, at 6 per cent. compounded to about $164, and with interest averaging over 6 per cent. will probably make them reach $200, when his five shares will cancel the loan of $1,000. The monthly burden will then be

Dues, ...	$5 00
Interest at 7.2 per cent., ...	6 00
Annual Taxes, $22; Water, $12; Insurance, $3, .	3 00
Monthly payment, ...	14 00
Interest saved on his own $6, at 6 per cent. $36, or .	3 00
	$17 00

So that instead of paying $17 a month rent, and never owning anything nor getting ahead at all, his $600 saved, enable him to save interest, $36, thereon, and pay the same $14 per month, and own his house free and clear at the end of ten years. The $3 a month saved in rent will take three new shares. So that his $600 grows into $2,200 in ten years,—showing how rapid accumulation goes on after a few hundred dollars are saved.

How true the proverb is that "The destruction of the poor is their poverty." Even more true is the converse truth, "To him that hath shall be given, and he shall have abundance." Observe a few of the results already in Massachusetts: The system can no longer be called an experiment. Under its peculiarly beneficent plans of operation many of the workingmen of this State are obtaining homes for themselves and families, while many others are saving their money and making a good investment of the same

through shares purchased in these associations. Under this law, eighteen charters have been granted, and the organizations are located as follows: three in Boston proper, two at Taunton, and one at each of the following places: East Cambridge, Jamaica Plain, Worcester, Fitchburg, Campello, Brockton, Fall River, Somerville, Lynn, Waltham, Haverhill, Holyoke, New Bedford. The eighteen coöperative banks have accumulated (Aug. 1881,) over half a millon of dollars and have a membership of about six thousand. The three in Boston—namely, the Pioneer, Homestead, and Workingmen's—have assets of one hundred and fifty thousand dollars and over sixteen hundred members. This represents the accumulation of four years in the two former and a single year in the latter. The system finds strong supporters among our best men and is growing fast in favor and popularity with the masses.

The most serious objection urged against these associations is usury. The fact of a large outright bonus at starting, which is the Philadelphia practice, is hard to measure and often deceives. The Massachusetts plan is plain and just. No bonus of principal, but a rate of interest which all can appreciate and which runs without change, and which the borrower can stop at any time by paying off his loan.

One serious caution is needed. These associations cannot live any more than any other form of business corporate or private, without rigid integrity in the managers. Here is the stumbling block of all corporations, as lately illustrated by several savings banks. Depositors in every association must feel it not only a right but a duty to watch closely the whole management of affairs, and especially the character of the men. Eternal vigilance is the price of property, as well as of liberty.

And now I invite consideration of this practical question, why laws similar to those of Pennsylvania and Massachusetts should not be introduced into all our States, adapted to their own forms of action, and framed to secure the best results. I am aware that in some other States, laws already exist. Has not the time come for their general extension, and careful revision where they already exist?

Surely the great end to aim at is that each family shall live in an independent home, with their children safe from the contagion of a crowded tenement house; and shall own a part of the soil of

their country. To effect this, thrift must be promoted, not by mere words and exhortation, but by wise and practical measures, by powerful influence and best of all, by close, constant and friendly contact so that the success of those who have already prospered in their thrift, may inspire a noble emulation, leading to like results among the far larger number of their fellow workingmen, who have not learned to save, and to whom a house and home seem an impossible dream, when they might and should before long be an accomplished fact.

II. THE CITY OF HOMES AND ITS BUILDING SOCIETIES.

BY ADDISON B. BURK, PHILADELPHIA.

Any discussion having for its subject "Homes for the People" will be defective unless special attention is given to the experience of Philadelphia, and to the system of coöperative saving funds which has there attained its highest development, and made the title "Quaker City" almost obsolete. These common names of great cities are seldom given without good reason, but "the Quaker City" has had its day, now that the Quakers are so much outnumbered by people of a different faith and habit. The newer title, "City of Homes," is peculiarly appropriate to a great centre of population which has within its borders a dwelling-house for every six inhabitants. Fortunately, too, the very influence that makes it a City of Homes is calculated to perpetuate it as a city of brotherly love. Philadelphians are pretty well accustomed now to being twitted about their mathematically straight streets, crossing each other at right angles, about their red and white houses, so much alike that strangers cannot tell one block from another, except by the names of the streets. But he laughs best who laughs last, and Philadelphians dwell in their cleanly, separate dwellings with complacency, and study the health bulletins that tell them theirs is one of the healthiest cities in the world, without envying their neighbors who think that outside decoration is the only or chief end of architecture. It is a curious fact, but a fact nevertheless, that buildings everywhere are praised or condemned chiefly on their appearance; that what is looked upon as the highest style, the Grecian, generally finds expression in a building of absolutely no practical use, at least outside of countries where roofs can be dispensed with; and that writers of all classes, in praising an architect's work, devote a great deal of attention to the effect on the eye, and to the decorative features of a building, and dismiss in a few words, if they mention it at all, the arrangements made for its proper use and for lighting, heating, drainage, and ventilation. I mention this because we Philadelphians have paid special attention to the interior arrangement of our houses, and have produced model homes in some respects, though we have, perhaps, neglected too much our opportunities for giving variety, and adding beauty to the street elevations.

PHILADELPHIA AS IT WAS AND IS.

Some of you are no doubt familiar with our city, but, as I do not know my audience, I shall ask you to bear with me while I give you a brief description of Philadelphia as you ought to see it, and of the influences that have made it what it is. The greater part of the city lies, as you know, on a neck of land bounded by two large rivers, the Delaware and Schuylkill. In addition to the city proper, as laid out by William Penn, numerous other villages, following generally the plan of streets laid out by Penn, were built within the county limits. These gradually met each other in the process of growth, until they formed a compactly built city, and less than thirty years ago they were consolidated under one city government. The country roads which once connected these different settlements, naturally developed into the main streets of the villages they traversed, and ultimately became business streets of the consolidated city. Although the lines of old settlements have long since been obliterated, even a stranger in the compactly built city could almost mark their centres by the clusters of stores; and, indeed, Philadelphia covers such a large area, that socially, and in a business point of view, it still partakes of the character of a cluster of settlements. One of the great thoroughfares I have mentioned—Second street—is lined on both sides, for a distance of at least five miles, with stores and shops, above which are dwellings. Ridge road or avenue, Lancaster avenue, Passyunk road, Girard and Columbia avenues, are also great business streets, outside of the limits of what are generally called the business parts of the city—the neighborhood of Market, Chestnut and Arch streets.

Very early in the history of the city a great deal of thought was given to the very subjects this Association is now discussing. The city was laid out in blocks, with what were then considered broad streets; the blocks themselves were divided into building lots large enough to be healthful, and small enough to be within the reach of people of moderate means; and large blocks, or squares, were set apart for parks or breathing places.

THE GROUND-RENT SYSTEM.

But more important than all this, the building lots for dwellings were sold on ground rent. It was a sale in fee simple, the former owner simply reserving to himself a rent out of the property. The

buyer became in fact the owner in fee simple of the lot, but, in consideration of not paying for it in cash, agreed to pay so much rent per annum; and this rent was almost invariably six per cent. interest on the assumed value of the lot; — at first irredeemable; thirty years ago required by law to be made redeemable. This was the foundation upon which the City of Homes was built. Under it very poor men were enabled to acquire title to a lot of ground on which to erect a homestead, however humble it might be. They were secure against eviction so long as they paid the very moderate rent for their lot, and all increase of value which the growth of the city or their own labor put upon their property went to them. The same system of ground rents prevailed in all the settlements now comprising the city of Philadelphia. There was a wide distribution of property, and as most heads of families owned their houses and lots, there was little demand or need for apartment houses, and few were built. Long before Chicago was thought of or conventions had been held, we had got through with a discussion of the "unit rule" in Philadelphia, and every house, whether large or small, was built for the accommodation of only one family. The custom was soon fairly established, and even when property had advanced in value so that it became more and more difficult for the poorer and more improvident people to own their own homes, and rented dwellings had to be provided for them, fashion, habit or prejudice still impelled each family to have its own dwelling complete in itself. More than a hundred years before Building and Loan Associations had been established in Philadelphia, before the days of coöperation, Philadelphia was a city of homes, made so primarily by the ground-rent system, and kept so by the force of local custom.

PHILADELPHIA HOUSES.

I have no doubt that the general plan of Philadelphia dwelling houses is also due to the fact that, being built to a great extent by people of small means, they were made at first no larger than necessity required, and were gradually extended as the means of the owner permitted and as the size of the family increased. The distinctive feature of the Philadelphia dwelling for persons of small means is that, whether large or small, it is well lighted, well aired and admits of decent living. Every room in the house receives light and air direct from windows opening on the street or

on the yard. Each room—except, perhaps, the kitchen—is entirely separate from all others, that is to say, the occupants may pass by entry ways direct from the street to any room in the house, without passing through other rooms. Each house is also provided with a yard or garden, and these, grouped together in the centre of a block, form a broad, open space common to all the houses above the six feet line, while each yard is, nevertheless, the exclusive possession of the house to which it is attached.

The greater portion of the dwellings are also provided with bath rooms, supplied from the city works. The plan, developed by experience and not the work of any one architect, is so good and compact that on lots 14 or 15 feet front by 50 feet deep, comfortable dwellings, with 144 square feet of yard space, and containing from six to eight rooms, are erected and supplied with the essential conveniences of the best of modern dwellings. As a rule, however, the lots are from 16 to 18 feet in frontage, and from 60 to 100 feet in depth.

The great bulk of Philadelphia's dwelling houses range in value, including lot, from $1,000 to $3,500. There are, of course, a large number ranging from $5,000 to $7,500, and for the latter sum a house can be bought fitted for the occupancy of a well-to-do merchant. I am, of course, not referring in any part of these remarks to the costlier mansions of the city, of which there are large numbers.

BUILDING SOCIETIES PRESERVING OLD HABITS.

When building societies were introduced in Philadelphia, fifty years ago, they simply found a congenial soil, and flourished on that account. They did not create, though they may have stimulated the desire for ownership of houses, and at a time when sales of lots on ground rent were less common than formerly, they provided a ready means for poor people to obtain houses of their own. It is an old story that the term building society is a misnomer and that Philadelphia building societies are really coöperative saving funds and loan associations, the correct title by which the Boston societies are known.

THE SOCIETIES REALLY SAVING FUNDS.

It would be impossible for me to make plain to those of you who are not familiar with the subject the method of doing business in a Philadelphia society of today, issuing its stock in series. But you

can all readily understand the society and its system in their simpler forms. Let us begin at the beginning, and see how the present societies might have been, if they were not actually, developed. One hundred men, able to save five dollars a month, agree, in order to strengthen each other in their purpose to save, to put their money together at fixed periods and lock it up in a strong box until each shall have accumulated $1,000. It is plain enough that if each man is prompt in his payments, that strong box will be ready to be opened for a division of the savings at the end of 200 months — in other words, if each monthly payment of one dollar represents a share of stock, each share will be worth a fixed par value of $200 at the end of 200 months. No sooner, however, has this agreement to save money in this way been made than one of the members suggests that, instead of allowing the money to lie idle, they had better put it out at interest as they gather it each month. The securities for its repayment with the interest being put in the strong box, it will not take them 200 months to accumulate $200 per share. The division of $200 per share may be made at the end of say 180 months, when they have only paid $180 on each share. This suggestion is adopted, and now we have a purely coöperative savings fund, with only one distinguishing feature, and that one of great value — the savings are compulsory and made at stated periods. The member does not lay aside in this fund his spare cash as humor to save seizes him, but enters into an obligation to pay so much per month. I am disposed to look upon this scheme thus far developed as comprising all the essential features of our misnamed Building and Loan Associations.

THE LENDING OF MONEY.

The other branches of business in which they engage, although they give character and name to the societies, are really incidental to the accomplishment of one grand purpose, that of saving money by coöperation and by compulsory payment into the treasury.

Imagine a society formed as here sketched, with no other object than that of saving money and deriving interest from the funds as they accumulate. The first problem that presents itself to the directors is, how to use the money collected the first month.

The purpose of the society will be destroyed if it is not safely invested. Shall it be put in Government bonds at a low rate of

interest, or invested in bond and mortgage, with real estate security, at a higher rate? If the latter course is adopted, to whom shall the money be lent? John Smith, who is not a member of the society, desires to borrow, but so also does Peter Brown, who is a member. If the society lends to Peter Brown, it will have additional security to that represented by his bond and mortgage — in his stock growing in value month by month. To get this additional security for all the money it lends, and at the same time secure a higher rate of interest for its money than could be obtained from Government bonds, the society determines to lend only to its members. Now, however, it is found that other members besides Peter Brown want to borrow the first month's collections. How shall it be decided between them? Obviously, the fairest plan is to let them bid one against the other, and lend it to the man who is willing to give the highest premium over and above the fixed or legal rate of interest. This course is adopted, and the society finds itself in possession of two sources of profit, interest on loans to its own members, and premiums for the prior use of money collected. It is manifest now that instead of requiring 200 or 180 months in which to accumulate in the strong box enough money and securities to divide $200 per share, it will only take say 160 months.

FINES AND WITHDRAWALS.

In the course of time some one of the members fails to pay his instalment. If this is permitted it is manifest that the member withholding his deposit and depriving the society of its use will, in the end, have an advantage over his fellow-members. He will lose only his proportionate share of the possible profit on this unpaid deposit, but will gain, or may gain, for his personal use the whole of its interest value by other investments. To check this a fine is imposed on unpaid instalments or deposits, of more than the interest value of the money, so that the fine may serve as a penalty as well as reimburse the society for the loss of the use of the money.

Another member finds that he cannot keep up his payments, or he desires to remove to another part of the country. To accommodate him, the society agrees to open its strong box before the appointed time, give him what he paid in, with some portion of the profit already accumulated, and cancel his stock. Now, it is

seen that, incidental to the simple business of saving money and getting interest thereon, there are three sources of profit, namely: premiums arising from competition for priority of loans, penalties collected for non-payment of dues, and profits withheld from members who fail to keep their agreement and whose stock is cancelled. And so we have developed all the features of a Philadelphia building society as it existed thirty years ago.

THE COURSE OF THE SOCIETY.

You can imagine for yourself the course of such a society. At first the demand for money is brisk and premiums rule high. As time goes on the demand slackens, premiums fall off and eventually it becomes difficult to dispose of money to members and other safe investments have to be found. At last, somewhere between the tenth and eleventh years, when from $120 to $132 have been paid in per share, the strong box is found to contain securities or money sufficient to divide to all the shares (borrowed and unborrowed) $200 each. The society is then, technically speaking, "wound up," though like Grandfather's Clock, it is "never to go again." Each holder of an unborrowed or free share gets $200 in cash. Each borrower is entitled to $200, but he owes $200, for which the society holds his bond and mortgage, so the account is squared by a cancellation of the mortgage.

THE RESULTS TO MEMBERS.

What have been the results? The investor has made ten or twelve per cent. on his money for the average time of his investments. The borrower has paid perhaps eight or ten per cent. for the use of his money, when the nominal market price is only six per cent. But if a fair comparison is made between loans obtained in the open market and loans from building societies, the difference will be found in most cases more apparent than real. That is to say, agents for private capitalists generally demand a bonus for getting a loan; the loan itself is generally not granted for more than three years, and if the market warrants it a fresh bonus will be demanded for a continuance of the loan or the borrower will be compelled to go again into the market to pay the first lender, and will have fresh conveyancers' fees to pay. This may occur twice in the lifetime of a building society loan, and when the accounts of two loans are compared, the difference is very frequently in favor

of the society loan as a matter of dollars and cents, and always in its favor when the convenience of getting the money, of paying the interest and dues in monthly instalments and the freedom from worriment about a possible foreclosure, are taken into consideration.

I have tried both ways of borrowing money to pay for a home, and have known many others to do the same, and my preference for the society loan, when the premium is not very high, is the result alike of experience and of observation. High premiums, be it observed, are not an unmixed evil. If the premium paid by an individual borrower, though high, is not above the average paid by other borrowers, a fair share of it will be returned to him in the shortened life of the society, and the reduced number of monthly payments he is required to make.

A BUILDING SOCIETY COMEDY.

There is a small building society comedy now being performed in Philadelphia, which may fairly be used to illustrate the advantages which may be derived from borrowing money through a building society. A little house, which rented for twelve dollars and a half per month, was put up for sale. The occupant, who liked it well enough to make it his home, was urged to buy it through a building society. He knew just enough of finances to be in the proverbial condition of a man with little learning. He would not be such a fool as to borrow money at a premium, and denounced the societies and their system. His friend, seeing that the house would prove a good investment, bought it for $1,500, and the tenant continued to pay $12.50 per month rent. There was a ground rent of $30 per annum on the house; the thousand dollars required for its purchase was procured from a building society, and the rental money devoted to paying dues and interest. The entire cost of interest, monthly dues, ground rent, taxes and water rent has amounted to just four dollars a month more than the rent. The comedy has advanced far enough to allow me to foresee and tell you what will be the result of the last act, and its moral. By the payment of about $500 in addition to the rent received from the skeptical tenant, his friendly adviser will become the owner of the house worth $1,500, subject to a ground rent of $500, or $30 per annum. The tenant might have done the same thing, and have lived in the house as its owner during these ten

years if he had only known as much about building societies as he thought he knew.

A LITTLE OF THE DARK SIDE.

But every borrower does not profit by building society loans, and because they do not the societies are sometimes the subject of unjust censure. You will notice that the societies as constituted have nothing whatever to do with the building or even the buying of houses. The money lent by them is generally devoted to building houses or the buying of them, partly, perhaps, because real estate security for the loan is required; but the borrower, having procured the money as an ordinary loan and given the required security, can do what he pleases with it. He may invest it in business or use it for purely speculative purposes. Whether he profits from the loan depends, of course, very largely upon the investment he makes; and the societies and their system are not in any way to be held responsible for the result, except in so far as they may encourage unwise purchases of property. Now, as a matter of fact, they generally act as a check upon reckless investments. The directors who pass upon loans look almost as keenly after the personal security afforded by the character of the would-be borrower and his apparent ability to carry the loan as to value of the property to be mortgaged to them. They seek to avoid loans that will give them any trouble, and, in doing so, necessarily act as a check upon extravagant purchases. And such a check is needed, for very few men are content to try to buy for a permanent home a house of the same class as that which they rent. They generally aim higher, so high in fact, that they sometimes overreach themselves, and, after a struggle, are obliged to give up the house they had hoped to call their own. And here comes in one of the sources of loss to both society and borrower about which there are many misunderstandings. The full benefits of the system cannot be obtained by any member who withdraws before his shares have reached maturity. If a loan is repaid before that time, whether voluntarily or under foreclosure, the cost per cent. per annum to the borrower is invariably greater than it would have been if he had kept on to the end. The society also generally loses by foreclosure proceedings, through lawyers' and agents' fees and costs, or, at least, makes less than it might have made if the loan had been carried until the shares reached

par value. In summing up his losses, the borrower seldom takes account of the rental value of the house he has occupied for perhaps three or four years, and so considers that he has been defrauded by the system. This is the origin of very many complaints against the societies, and when the story of the sufferer is exaggerated and misunderstood, it creates in some minds (particularly those of law-makers) a bitter prejudice against the whole system.

HONEST MANAGEMENT AND AUDITS.

The management of building societies is extremely economical. There are only twelve meetings each year. These are held in small halls at night, and all the officers serve without pay, except the secretary, who receives a nominal salary. The affairs are conducted in the vast majority of societies with scrupulous honesty, notwithstanding the temptations careless stockholders set before the officers by neglecting to take receipts or attend meetings, or in any way care for their interests. So confident are thousands of people in the honesty of these societies as a class, that they will go among strangers and make their deposits with any one who offers to take them, often without taking receipts for the payments. Once in a great while some one takes advantage of this faith and trust, but very rarely. Indeed, the ordinary business of building societies is a pretty good check upon wrong doing. The meetings are open, the books may be examined at any time, and a committee of the board usually stands between the secretary and treasurer to make note of the collections. The auditing of accounts by a committee of stockholders once a year is a duty which should be very thoroughly performed. The committee, if it is willing to do the work, can easily make a thorough examination of the books and securities, but it cannot without going over each individual account declare whether the amount reported to have been received for dues is correctly stated. The best thing to do to make the audit effective is to publish with the annual report a statement of the debits and credits of each individual account, as known by its book number. Thus each member is made the auditor of his own account, and if it is omitted from the list or incorrectly stated, he will be sure to call the attention of the directors to the error. The aggregates of these individual accounts furnish the basis of the general account, and if they are

correct it is only a matter of calculation and examination of vouchers, to determine whether the secretary's and treasurer's books are right. The audit ought to be thorough, or should not be attempted. To go over the accounts merely as a matter of form, is to set up the white light of safety in ignorance of the condition of the road. It would be better to leave it down, and let each traveller look out for himself.

EFFECTS OF BAD MANAGEMENT.

All is not gold that glitters; and some of our Philadelphia societies, through bad management, and a few through dishonesty on the part of officers and carelessness on the part of stockholders, have brought great discredit on the whole class. Not long ago, when I invited a young man to join a new society, then forming, he refused to do so, and when I inquired the reason he told me that he had put $84 in a society and had not succeeded in getting more than $15 out when he attempted to withdraw. This, however, is an exceptional case. Another society whose report I saw, suddenly reduced the reported value of its shares from $190 when $108 had been paid in, to $94 when twelve dollars more had been invested. In this case the loss was occasioned by bad bookkeeping, and a false division of profits to a series which was mistakenly said to have matured, and had taken out of the treasury money that did not belong to it.

DIVIDING PROFITS.

Although the subject is rather technical, and I cannot treat it fully, I should like to call your attention to this matter of dividing profits in a series society. The typical society I have heretofore described, is supposed to have issued its stock in one series. The modern society issues its stock in annual or semi-annual series, with the purpose of keeping up the demand for money by periodically introducing a new brood of borrowers.

ISSUING STOCK IN SERIES.

I think, myself, that there is no real advantage about the issuance of stock in series, provided due provision is made to pay off free shares as they mature; and, if such provision is not made, as has been the case with hundreds of Philadelphia societies, the very purpose of the organization is defeated. Suppose the stock to be issued is in series. After the first few years the greater part of

the money will be loaned to stock in the later series—that is the very purpose of issuing the stock in that way. If this is continued, as has been the habit, until the first series matures, the strong box will contain no money and no negotiable security, although the assets are ample to pay the free shares—on paper at least. The result of this state of affairs—and it exists in many societies—is that the investor, entitled to $200 per share in cash, is compelled to wait from one to two years before he can get his money. And the use of the money collected from month to month, in paying off these free shares, deprives the later series of profit thereon. They no sooner recover than the second series runs out after a longer term than the first, and more free shares have to be provided for, setting back the third series so that it will run a still longer term. The only way to avoid this difficulty is to make timely provision to meet a known future obligation. This can only be done by holding money in the treasury, or putting it in negotiable securities; and, if this is done, all the supposed advantage of issuing stock in series is lost.

A COMPARISON FROM REAL LIFE.

We had a striking exemplification of this in the history of two societies that ran an almost parallel course in Philadelphia. One was formed chiefly of *Public Ledger* employés, and was as conservative as the paper, issuing but one series of stock; the other, starting about the same time, was progressive, and issued its stock in series. For some years the reports of the two societies seemed to justify the sneers cast upon the slow management of "Ledger No. 1," of which I was not a member. The series society reported great and increasing profits, while the "Ledger" had to invest its surplus money in Government bonds, City sixes, and similar securities. At length the first series of the series society reached par, and there was great rejoicing until it was found that there was no money with which to pay the free shares. The members had to wait or submit to discounts in order to get their money, and in the meantime the "Ledger" stock matured. I was present on the night that the stock reached its par value, and had the satisfaction of seeing every cancelled mortgage delivered to the borrowers, and every holder of free shares get a check for the full $200 per share to which he was entitled. The whole business of closing up the affairs of this society was done

in twenty-four hours. It is, in fact, one of the specially good features of the single series society that it cannot possibly run out, or be declared run out, until the strong box contains enough money to divide $200 per share.

MORE ABOUT DIVIDING PROFITS.

Where series are issued the profits are very apt to be unfairly divided between them. The only safe rule, which I feel sure is right, is one devised by my friend, Mr. Michael J. Brown, of the *Building Association Journal*. This treats the series as business partners, and divides the gains to the series by the ordinary partnership rule given in the arithmetics. By it every dollar invested, no matter what the series, receives the same rate of profit for the time it is invested as that given to every other dollar.

ABOUT PREMIUMS.

I shall only touch upon the mistakes committed with premium accounts, because the later plan of collecting premiums, like interest, in monthly instalments, which has been adopted by the Boston societies, prevents the mistakes made in some of our Philadelphia societies. Where the premium is deducted from a loan, a man borrowing $5,000 may perhaps receive only $4,000. The other thousand dollars is retained by the society as the premium. If the loan should be repaid at any time, a part of this premium is returnable to the borrower, the part retained being proportional to the time he has used the money. Nearly all our societies have been in the habit of treating the whole of the premium as a gain at once, instead of setting down the returnable portion as a liability. This has led to false divisions of profits and such losses to later series as I have heretofore mentioned. The worst of it is, too, that the division having once been made in a report is treated as final, and if any subsequent change takes place, stock in series that had no share in the *false* profit, must help to bear the *real* loss. The mistake, I am glad to say, is being corrected, also under the leadership of Mr. Brown, who has induced by his arguments many directors to treat returnable or unearned premiums as liabilities.

PROSPECTS OF THE FUTURE.

I think we now understand these societies thoroughly in Philadelphia, and that the prospects for the future are very bright, not

in the direction of large profits, but of continued usefulness, and all the brighter on that account; for large profits mean costly loans to borrowers, and costly loans defeat the purposes of the organization. Let me say, in conclusion, that there is no good reason why this coöperative savings fund and loan society system should not be of great benefit to people everywhere, especially if you will take our experience in Philadelphia as a guide against known mistakes of management. It does not require that the people should be given money help to start a society, but only that some good men and true should make known the advantages of coöperation, and aid in giving the society wise direction.

One feature of great value in these building societies is, that they help to make men independent and self-helpful. There is nothing pauperizing about them. Even the borrowers get their loans not as a favor, but as a matter of right, a privilege for which they pay. The man who organizes them in a new neighborhood, and helps to develop them in the right direction, does more for the good of the community than the philanthropist who, in helping workmen to acquire homes through gifts of money, puts them under obligations they cannot repay, breaks down their frugal, thrifty habits, and leads them to look forward with a beggar's wistful eye to means of getting money without working for it.

I know that I have failed in this hurriedly prepared paper to do more than touch upon many questions of great interest and importance, and may have also failed to make clear those points I have attempted to explain, but, to correct such omissions and obscurities of expression, I shall be glad to give further information in response to direct questions, as time and my knowledge of the subject may permit.

III. HOMES FOR THE PEOPLE IN THE CITY OF WASHINGTON.

READ BY JOHN HITZ, ESQ., OF WASHINGTON.

(Friday, Sept. 9, 1881.)

As a house is typical of the man who builds it, provided he intends to occupy it himself, and cities in general terms are typical of their founders and the people who inhabit them,—so that city which constitutes the federal seat of government of a land, partakes more or less of the individual and general characteristics of the nation at large. More especially is this so, where, as in Washington, the nation is actually the founder, and through its representatives exercises direct control over it. Washington, then, from its very inception partook of a national character, and to all close observers, it already gives evidence of becoming in time a veritable epitome of the United States. Certainly no feature of the city more forcibly illustrates this distinctively national character than do the buildings scattered over its wide area. Here one finds, both in the city and suburbs, numerous specimens of the primitive hut of the dusky sons of toil from the great "cotton-belt," and likewise the inviting verandah and generous hearth of a genuine Southern home. Neither are wanting the cosy cottage of a New England artizan, and the suburban villa and granite palaces of some of her men of mark. And so also can be seen types of the cheerful Western home, and the Philadelphian interminable uniformity. The opulent New Yorker already finds that his elegant mansion, which wealth has supplied with every possible comfort, is rapidly being duplicated here in the more advantageous and pleasing surroundings afforded by numerous well kept public parks, and a hundred miles or more of superior paved roadways, shaded by no less than seventy thousand trees.

When we examine into the character of the dwellings occupied by the whole people in Washington, the relative number of taxpayers, etc., a showing by no means discreditable to this typical city of America will present itself. Only, the peculiar position which the federal capital occupies, as it were, imposes upon it exceptional advancement in the matter of "Homes for the people." The regulations of the inspector of buildings and of the health department (which in the main are strictly enforced), preclude the possibility of people living in basements and hovels totally unfit

for habitation. It will furthermore be seen that the proportion of houses of insignificant value is small, and the number of freeholders quite large. The following statistics, culled from late official reports, will enable all interested in the subject to draw their own conclusions:

Population of the District of Columbia (Census of 1880).

	White.	Colored.	Total.
Washington, ...	99,128	48,179	147,307
Georgetown, ...	8,819	3,759	12,578
County, ...	10,289	7,464	17,753
	118,236	59,402	177,638
Total number of taxpayers (stated), ...			18,000
" " " families (estimated), ...			37,500

Houses in the District of Columbia June 30, 1881.

Brick or stone houses in Washington, . . .	12,765	
" " " " " Georgetown, . . .	1,088	
" " " " " County, ...	201	
		14,054
Frame houses in Washington, ...	9,900	
" " " Georgetown, ...	1,005	
" " " County, ...	755	
		11,660
Houses valued at $100 and less in Washington,	1,424	
" " " " " " " Georgetown,	116	
" " " " " " " County, . .	370	
		1,910
Total, ...		27,624

There is no lack in Washington of the spirit of coöperation, which manifests itself in various economic, social, political, and other organizations. One finds any number of excellent building associations, with features like the "Equitable," recommending itself specially to those in office of "uncertain tenure." But they all, whilst encouraging economy, tend to supply the absence of reliable savings banks (of which there is only one in Washington), rather than in reality to stimulate among members the acquirement of homesteads. There exists every evidence that the people "love to congregate together," but, it would seem, not for purposes of domicile; for one of the most marked features of the city is the total absence of tenement houses, as known in New York and other cities. It is true that the numerous boarding houses absorb a considerable part of the population, and that, here and there,

we find two or even three families occupying one house, but the latter is exceptional. Even the poorest laborer seems to prefer a more remote domicile of his own, made up only of refuse lumber, to the most centrally located attic under rent. The great area of the city, in connection with its excellent streets and ready means of reaching the suburbs, enables the laborer to dwell according to the bent of his mind—near the ground, and remote from the inconveniences of upper stories. But no class here, not even the unskilled laborer, more clearly needs to devise some better mode of home life, than in the main falls to the lot of members of Congress, and of the ten thousand or more employés in the public departments.

One of the distinctive phases of the population of Washington, as compared with other cities, is its disproportionately large number of persons engaged in clerical work of a higher than ordinary grade, and the comparatively small number of artisans engaged in mechanical and other like pursuits. Owing to the vast area of streets, extensive sewers, etc., which, in a comparatively new city of such great extent, need improvement and constant attention, a larger number of unskilled laborers find temporary employment than is common in cities having a resident population equal to that of Washington. The exceptionally large number of its transient population during the sessions of Congress, also gives increased activity to tradespeople, and considerably augments the number of those employed for the time being in all branches of domestic service. Whilst much might be done, it is true, to improve the domiciles, and, to some extent, the boarding and lodging facilities of these, and so render their service more efficient, yet they are, in the nature of things, comparatively better provided for than are most of the 1,400 employés of the Government Printing Office, the 1,600 artisans of the Navy Yard, or the 3,300 persons of both sexes in service of the Treasury department, to say nothing of the large number engaged in the War, Navy, Interior, State, and other departments.

Efforts to meet the want here indicated have not been wanting. Whole squares have literally been built up with two, three and four-story dwellings, many being provided with all the so called "modern improvements." These structures contain from five to thirteen rooms, and are obtainable at the moderate rentals of from fifteen to sixty dollars per month. These, according to location

and conveniences in general, find tenants readily. Many are held for sale on liberal terms, such as a cash payment of several hundred dollars, followed by monthly instalments of from twenty-five to fifty dollars for the balance of the purchase money, which includes interest at the rate of from six to eight per cent. But this system of providing homes for the great mass of people in Washington, having moderate and stated incomes, but of uncertain duration, is only partially satisfactory.

It is true many of these dwellings have thus been purchased by their occupants, but, generally speaking, these houses are not constructed or located to suit the taste of the more domestically inclined government employé. Even if not immediately hailing from some rural district, when purchasing a homestead, he wants something besides brick and mortar; and, typical American as he is, at heart longs for a country home, or the nearest approach to it possible.

Among other notable schemes to meet the want in question, an eminent topographical engineer, Mr. J. Enthofer, of Washington, in 1870, published a "Prospectus of a Coöperative Enterprise supplying families with a comfortable home and facilities for the education of their children." This project aimed at the organization of so-called, "Home Associations." Membership was not to be limited in number, but subdivided into sections, according to the locality and size of each building for associated homes. The money required to erect an associated home building, the projector proposed to raise by subscription to stock in shares of one hundred dollars each, payable in monthly instalments of fifty cents. As soon as the required number for an entire structure had been registered, duly passed on and accepted, officers were to be elected, a charter procured, the desired ground leased or purchased, and contracts for the building entered into. As a type for such a building, the projector recommended selecting a square of ground 330 by 400 feet, and erecting thereon, exclusive of cellar and mansard, a four-story edifice, including a transverse structure, the whole so constructed as to afford two court-yards each, of 158 by 292 feet; one to be laid out in a flower garden, and the other in a grass plat, as a playground and gymnasium for the children of the occupants of the associated home. The entire structure was to contain, besides closets, etc., some 720 apartments; each room having a depth of eighteen feet, and to be from twelve to thirty

feet wide. The lodging-rooms were to be so arranged that members could be accommodated with just the number required, from three to thirteen; the partitions to be solid brick walls and flooring sound-deadened and fire-proof. Access to the several suites of apartments was to be had by means of twelve stairways of ample size, so arranged that each stairway landing would have to serve only two families on each floor. Each suite of apartments was to have from forty-eight to 133 feet frontage, and be entitled to a portion of the cellar and mansard. The whole building to be heated by steam, which in the summer season would be utilized to drive ventilating machinery; the gas to be manufactured upon the premises. An engineer was to be employed and a janitor placed in charge of the entire building, whose duty it would be to keep it in good sanitary condition, and the courts in proper order. The services of a first class caterer were to be secured and a public laundry provided.

The transverse structure it was proposed to utilize as follows: the basement, for vapor, plunge and ordinary bath-rooms, for the use of occupants of the "Home," not provided with the same in their own apartments, for hair-dressing saloon, &c. On the first floor there were to be two large school-rooms and a dining saloon for children under twelve years of age. The second floor was to contain an assembly-room, forty by seventy feet, for social entertainments, and other meetings; also, a dining-room for members not taking meals in their own apartments; a reading or sitting-room for ladies, and a reading and smoking room for gentlemen; these to be supplied with choice reading matter, periodicals and papers in ample numbers, at an expense not to exceed fifty cents per month to each subscriber. The third floor was to be appropriated to recreation, amusement and conversation rooms, furnished with billiard tables, chessmen, &c. Regulations for the instruction and supervision of children, providing for the sick, and also in regard to furnishing meals, and attending to the laundry work, of occupants of the "Home," who preferred not to perform such labor in their own apartments, were given by the projector.

The rentals per year which these apartment should yield to the members or stockholders were stated as follows:

First story,	front	rooms,	per	square	foot	of	area,	twenty-five	cents.
Second	"	"	"	"	"	"	"	thirty	"
Third	"	"	"	"	"	"	"	twenty	"
Fourth	"	"	"	"	"	"	"	sixteen	"

The remainder ranging from twenty cents down to twelve cents. Thus a front room of eighteen by sixteen feet on the third floor would command four dollars and eighty cents per month. The expense of living at such an associated home, including board, washing, heat and light as also the expenditnre for janitor and engineer, were rated as follows per month:

Single persons	twenty-five dollars.
Families, per adult, according to number,	
from	fifteen to twenty "
Children under fourteen years	ten "
" " ten "	eight "
" " five "	six "

The projector sums up by showing in a tabular statement, that for a family of six persons, living in such an associated home, apart from the advantages it would enjoy in the way of educational facilities and increased comfort in many respects, a gain of nearly three hundred dollars annually would be the result as compared with the present mode of living in detached houses.

It is now upwards of ten years since this plan was proposed in Washington, and despite the unquestioned success of a similar system originated by the eminent social scientist, J. B. A. Godin, in Guise, France, as early as 1859, the beneficent effects of which command to this day the admiration of every votary of social science, this project of Mr. Enthofer has so far totally failed of realization. Various have been the reasons assigned therefor. The projector, himself, states that most of the subscribers declined to take any other apartments than those on the first floor; others say the scheme is antagonistic to that instinct of individualism, inherent in every true American, which makes him averse to anything which shall, even seemingly, hamper his movements or lessen his individuality; whilst a third emphatically declares "the love of dominion in man," to be at the bottom of the disinclination of American men to adopt such a system of homesteads, because it would be a signal movement towards emancipating their wives from the drudgery of house-keeping and render them less domestic.

Various suburban projects have, from time to time, been started to meet the demands of persons of moderate means, who would not be content within the ordinary city dwelling. "*Uniontown*," primarily for the employés of the Navy Yard, is beautifully located

on the banks of the "Anacostia," or Eastern branch of the Potomac, on a plateau of gently rising ground backed by a fine range of hills. Along the base and on the rise of these hills, a short distance apart, a suburban negro village called "*Hillsdale*," has sprung up, as it were, of indigenous growth, which, with its many primitive and rude looking structures, liberally covered with whitewash, gives the landscape here, from a distance, a rather picturesque and cheerful appearance. A tramway extends from the city to these suburban villages. The denizens of neither of these settlements seem to have been actuated by any other motive to locate here than that the holders of the ground offered building and garden lots on exceptionally low and favorable terms.

Mount Pleasant Village and *Meridian Hill*, two suburban settlements situated on the high plateau north of the city, were efforts in the direction of inducing clerks in the departments, and other persons of moderate means to purchase lots of half an acre or more on easy terms, and erect thereon cottages to suit. Whilst both are delightful locations, neither has attained that degree of prosperity and attractiveness which their denizens at first pictured to themselves. Possibly the distance from a tramway of the one or the detrimental practice of holding lots at a higher price than originally fixed upon, after the first sales were effected, may have caused a lack of the requisite participation. So, whilst some cosy and inviting homes may be found there, the majority of lots remain unimproved, or show lamentable neglect. In regard to *Pleasant Plains* and portions of *University Hill*, two like suburban settlements (on the line of tramway however), a similar tardiness of growth is to be noted.

It would seem that the only approach which has been made, in the District of Columbia, to solve successfully the problem of suitable associated homes for persons of moderate incomes, is the enterprise known as *Ledroyt Park*, comprising some fifty acres of land, subdivided into 190 building sites, adjacent to, and fronting some two thousand feet on the northern boundary line of the city. It is contiguous to the *termini* of two tramways, with a third in prospect at an early date, so that at all times for a five cent fare most of the public departments may be reached in from fifteen to thirty minutes. This enterprise indicates an intelligent effort to practically solve the problem of "Associated Homes" adapted to the taste, wants and means of the average American.

The projectors, Messrs. A. L. Barber & Co., constitute simply a copartnership. Purely as an investment the firm purchased the ground in 1872 and 1873, inclosing the entire area with a fence in common. Enlisting in the enterprise the thoughtful, experienced and, in this line peculiarly successful architect, James H. McGill, the ground was then laid off in suitable building sites, taking care to preserve what trees there were upon the premises (among them a number of fine oaks), and utilizing for purposes of landscape effect, such inequalities as presented themselves. Like M. Godin at Guise, Messrs. A. L. Barber & Co. showed their sincerity of purpose, and confidence in the advantages the project would offer to families; for among the first dwellings erected was one for each partner of the firm, where they continue to reside to this day.

The architect wisely designed plans, generally uniform as to the interior arrangements, but on the exterior of the most varied, picturesque and tasteful designs. The projectors then organized, mainly among themselves, what they styled: "The Ledroyt Park Building Company," which association erected the dwellings as there seemed a call for them, some singly, others, for the purpose of greater economy in building, in pairs or adjoining each other, but ever careful to preserve proportions in keeping with the general design. Of such dwellings, some with, and others without stables or other outhouses (which latter when erected are all constructed in harmony with the prevailing styles of architecture), there are now some fifty, of which about half are owned by their respective occupants. The houses are substantially built of either brick or wood, are provided with cellars and have ornamental slate roofs. On the ground floor they usually have, besides one bay window, a porch or piazza and hallway, a parlor, library or conservatory, a dining room, kitchen and pantries or closet, whilst on the second floor, in addition to occasional balconies, bath-rooms and ample closets, there are three or more chambers. A third floor is exceptional and only introduced in case mansard roofs are used. The dwellings are all supplied with gas, water, sewerage, Latrobe stoves, ranges, marble mantels, bells, etc., etc. They are sold at from thirty-six hundred dollars, including lot, to ten thousand dollars, according to size and extent of building site. The terms of purchase are such, that most government clerks could by dint of economy, within a term of eight years or less, according to the amount of salary they receive, readily pay out of

the same the price of one suited to their respective tastes and wants. These dwellings are set back from the curbline some fifteen to forty feet, and range in width from thirty-six to sixty feet. The streets and avenues remain private property, for the sole use of the residents of the park, yet are free to the public to drive through them. The proprietors of the grounds comprising the park, and not the municipal authorities, improve and keep in repair the streets and sidewalks, and provision is made to secure the services of a competent landscape gardener, whose duty it is to keep the entire grounds of the park (devoid as they are of division fences of any kind,) in proper order, whether occupied or not, provide requisite plants for ample floral display on the premises, see to the trees, grass and roadways, and in fact render the place attractive at all times.

Letter carriers, venders of bread, meat, milk, fruit, vegetables and ice, make their regular calls upon the denizens; physicians and the police are readily summoned by telephone. A book and magazine club has existed for several years, and the excellence of its social sphere is a well established fact. What more, then, could be wanted in this locality? Is not this the commencement of a veritable American Utopia such as "*Bedford Park*," near London, is to the eyes of Moncure Conway, Nast, Renan, and the inhabitants of its 350 quaint Queen Anne Cottages? The projectors, and those participating with them as residents of *Ledroyt Park*, may laudably entertain such hopes. Will they be realized? The future alone can tell. Whilst the projectors and denizens of this park deserve great credit for what they have accomplished, much remains yet to be done to make it (or any similar enterprise) the Arcadian home which (within the present limited period that they feel their term of office assured) the great majority of government employés here can reasonably expect to attain.

But why should not such a model city block, or surburban park of associated homes, be feasible, if constructed within the means of those for whom they would be intended? Homes, we will say, in one or more quarters, for those now inhabiting cramped and vermin-breeding structures, would aid in elevating them and their children to a higher standard of moral and intellectual culture. In another section, easily accessible homes for government employés and others engaged in similar labor, comprising cosy cottages, supplied with the conveniences which the more modern

applications of electricity, steam and gas in domestic economy afford; a coöperative dining hall in charge of a first-class caterer, a public laundry, a nursery and kindergarten, so that the mothers of the place, if so disposed, could at all times, temporarily or permanently, be relieved of the drudgery of the kitchen, the worry with servants, and the wearing care of small children, cheerful apartments for, and good attention to, the single of both sexes, a Rochdale store, a school and circulating library, places of worship and amusement, public greenhouses and conservatory, a swimming pool and skating rink, a gymnasium, a livery stable, a post and telegraph office, in fact everything calculated to make such an associated home attractive at all seasons, promote refinement, and afford true comfort. All might be so arranged that, to some extent at least, it shall be within the means of every denizen to enjoy these advantages, whether his salary be only that of a messenger, or be that of a cabinet officer.

Considering the practice which prevails of apportioning the appointments in the several departments *pro rata* among the States, will not some wealthy public-spirited New Yorker lead off with such an associated home building, or a suburban park, at the federal Capital, named in honor of his, the great Empire State? wherein provision might even be made for its senators and representatives, of which New Yorkers would be proud, and where they would delight to congregate? Or will some farsighted New Englander first step forth and show how it can be done? The several State headquarters at the Centennial Exhibition gave abundant evidence how gladly "birds of a feather flock together," and not less so the entertainments of certain of the State Associations in this city within a more recent period. It is merely in a suggestive way that these ideas are presented; back of them, however, is the accumulated observation of years.

The advent of the so-called Board of Public Works, of which Ex-Governor Alexander R. Shepherd was the master spirit, did much to stimulate the erection of a better style and higher order of dwellings in the city. The parking or widening of the sidewalk area along all streets not devoted exclusively to business purposes, allowed the introduction of bay windows and other ornamental projections. Thousands of dwellings in the city now enjoy the advantages of this wise innovation upon former rules for building. This parking, together with the extensive tree-

planting feature of Washington, has greatly added to the pleasure and comfort of its denizens, and contributes largely to mitigate the drawbacks incident to life in large cities.

The grading and paving of the city, in a manner that even exceeds in excellence the carriageways of the most advanced capitals of Europe, induces the more wealthy frequenters of Washington, and also many of the prominent public men of the country possessed of the means, in increasing numbers, to erect elegant and costly mansions. The federal Capital promises thus in time, not only as a writer has recently observed, "to be the winter end of New York as Newport is its summer extension," but the favored resort during half the year of the cultured and wealthy throughout the land. In anticipation of this increasing influx of the wealthy, apartment houses are being erected upon a scale equal to any in the country. Such a structure, recently completed, called "*The Portland*," contains three complete suites of six rooms, each on the lower floors, commanding respectively a rental of $1,500 per annum, unfurnished, whilst the smaller suites on the upper floors are held at from $780 to $1,200 per annum. Of course all conveniences which it is possible to supply are introduced, including elevators and steam heating, whilst on the first floor, those who desire to dispense with cooking in their own apartments, can be served at a *table d'hôte* or *a la carte*.

It will thus be seen that in Washington, for the wealthier class of people, temporary and permanent rooms upon a commensurate scale, are amply being provided, but homes adapted to the means, and in keeping with the advancing spirit of the age, for the unskilled laborer, and the large number of people called into the service of the Government (including a suitable dwelling for the family of the President of the United States), are wanting. These will no doubt in time be forthcoming, when greater stability is given to the civil service, and some enlightened man or woman of this country "possessed of means and goodly will," shall, as Godin did in France, and Lindley in Great Britain, show here how it can be done. Then we may expect to see clusters of model dwellings at the National Metropolis, which, provided their inmates make the two great commandments their rule of practice in life, shall constitute the best types of American Homes for the People.

DEBATE ON BUILDING ASSOCIATIONS.

The three papers submitted by Mr. PAINE, Mr. BURK and Mr. HITZ were presented in behalf of the sub-committee of the Social Economy Department, which had for its subject of investigation the general matter of *Homes for the People*, so often considered by this Department since 1874. In the absence of Professor ROGERS, chairman of the Department, Mr. F. B. Sanborn presided, and, at the close of the paper of Mr. Hitz, called for a discussion of the topics under consideration. Mr. F. J. Kingsbury, of Waterbury, Ct., opened the debate by the following remarks:

Mr. KINGSBURY: In Connecticut our experience with Building Associations has been very unfortunate. A law was passed about 1850 authorizing their formation under the name of "Savings Banks and Building Associations." For a while they were very popular, and by 1857 they had come to represent a capital of seven or eight millions, and were said to have controlled the State legislature of 1857. The crisis of that year, however, found them wholly unprepared to sustain themselves. That class which was expected to be specially benefited by them,—the class that depends mainly on daily labor,—were the greatest sufferers. They were unable to meet their monthly payments, they lost their homes, and in many cases the hard earned savings of previous years. They found themselves burdened with a debt they could not hope to pay and became despondent, hopeless and ruined. All these associations were gradually wound up and closed by order of the legislature; the law was repealed, and the prejudice in the State against the Building Associations remains strong to the present time.

As a rule they were not managed dishonestly. It was a lack of prudence and foresight, rather than of honesty, that caused the trouble. The management in many cases was in the hands of people of not much business knowledge and experience, and there was enough in the system that was attractive, and at the same time specious, to mislead these men, and those who were persuaded to join with them.

These associations were all of that class having various series, maturing at different times, and which Mr. Burk admitted were too complicated to be intelligently managed without great experience; although many of the Philadelphia associations were on that plan. A work written to elucidate the series system was far more abstruse than Gen. Barnard's essay on the mutations of the gyroscope.

Mr. Kingsbury thought that the series plan had been one of the important difficulties in the Connecticut experiment. Other trou-

bles were that under the stimulus of competition, brought about by the bonus system, borrowers, ignorant of business matters, had been induced to pay a higher rate of interest than any business could afford to pay; also, as a rule, loans were made on insufficient security, being largely second mortgages, or first mortgages for the full supposed value of the property, and frequently a speculative value at that. Under the stimulus of these Associations, an inferior class of builders built, for purposes of speculation, a great many poor, cheap houses, which almost fell to pieces after a few years' neglect, and became utterly worthless. Perhaps, in a large city like Philadelphia, where there are probably stringent building laws in force, the danger from this last mentioned cause might be largely avoided; but there had been generally, both by managers and members, borrowers and lenders, such an apparent lack of sound business management in Connecticut, that he had been led to believe there were radical defects in the system, that were responsible for it. One of the prevailing fallacies always seemed to be, that the borrower did not have to pay a high price for his money, while the lender did get a high rate for his. Even Mr. Burk, who understands business matters pretty well, says, "What have been the results? The investor has made ten or twelve per cent. on his money for the average time of his investment. The borrower has paid perhaps eight or ten per cent. for the use of his money when the nominal market price is only six," etc. Now, is there anything more clear than this, viz.: that, whatever anybody has made, the borrower must have paid it,—and not only that, but in addition to that, all expense of management and all losses? Where else could it come from but the pockets of the borrowers? It is fallacies of just this sort, plausible and specious, but misleading, that have given men a great distrust of this class of institutions.

Mr. Kingsbury was willing to admit, however, that in Philadelphia these Associations had been apparently successful, beyond what he had thought possible, and while he believed the scheme itself a dangerous one, he advised persons willing to try the experiment to proceed with great caution, and to look to Philadelphia for assistance and advice; making, if possible, all due allowance for certain habits of living and usages in building, which he thought were to some extent peculiar to that place.

Mr. Burk made some reply to the criticisms of Mr. Kingsbury, and the Chairman referred the latter to the Report of Mr. Paine for the present state of the law of such Associations in Massachusetts, where formerly the same complaint occurred as in Connecticut.

IV. SOME RELATIONS OF ART TO THE AMERICAN PEOPLE.

A REPORT PREPARED BY MARTIN BRIMMER, ESQ., OF BOSTON.

(Read September 9, 1881.)

Within a very few years there has been a remarkable growth of the taste for art in this country. We have come, somewhat suddenly, to the conviction that the fine arts and the application of them to industry form an essential element in the progress of a great people. This development is a part and a sequence of a similar movement throughout the civilized world. In order to understand its nature and its drift with us, we must consider, however briefly, its sources abroad and the conditions under which it has reached our shores.

The most striking characteristic of the stream of art is its tendency to broaden its channels. Egyptian art, the earliest belonging to an advanced civilization which has influenced our own, serving a religion of mysteries, controlled by a priestly caste, and hemmed in by priestly traditions, addressed itself chiefly to the feeling of religious awe. The Greeks, whose deities were men gifted with ideal attributes, appealed in their works to the sense of beauty, and especially to the delight in perfect form and proportion. Christian art was the first which ministered to religion by touching many chords of sympathy, and by expressing with force a wide range of emotion. In the Renaissance, the religious purpose ceased to be paramount, and the element of human sympathy mingled with the love of beauty which was born again with the discovery of the old Greek art. In painting the range of subjects widened, portrait painting became common, landscape began. Sculpture grew bolder in its aims, new decorative arts arose, new styles and uses of ornament were devised. And then, early in the seventeenth century, there sprang up in the Low Countries a new school which broke away from religious motives and heroic ideals, began to take in all the aspects and associations of common life, and found the dissecting-table not too repulsive nor the barn-yard too humble to be portrayed with the highest skill. The same influences which gave force and permanence to this phase of painting affected the other arts. Sculpture, restrained by its conditions within narrower limits, lost in relative importance. Architecture neglected grandeur to seek convenience, pleasure,

the ornamenting of daily life. The skill of the metal-worker and the embroiderer, which in earlier times had served the worship of the church or the luxury of the nobles, was now in demand by the middle classes. This was a revolution. It has gathered strength with each succeeding generation, and, in this century, has overflowed all barriers. So far is its force from being exhausted that its essential principle, that no human association is alien to art, if art can touch it, is stronger today than ever before.

If, however, this broadening range of purposes, and this wider demand for a share in the pleasures of the arts have come to us by a long process of development, these tendencies have been reinforced in our time by several causes. A passion of curiosity has grappled with every branch of the subject. All remains of the art of other times are eagerly dug out of their resting-places and put under the investigator's microscope. Libraries are dredged for every clew that can explain the methods, the theories, the various relations of each school. This curiosity is far from being satisfied with mere research. Old theories are reasserted, old processes revived, old results imitated. The architecture of the 13th century, the painting of the 15th, are reconstructed, set up, galvanized into some appearance of life. The East, from Montenegro to Japan, is made to yield up its best and to furnish its histories and its methods. Scientific discovery and mechanical contrivance lend their aid in reproducing the past. The rare coin or engraving, the majolica vase and the shield of hammered metal are repeated in exact fac simile, and elaborate embroidery is closely copied in woven tissues. But our modern appetite is not satisfied with this influx of things old and foreign. It seeks novelty as well,—novelty in conception, in execution, in material. The closer study of nature yields fresh motives and subjects to the landscape painter, who seeks the representation on canvas of scenes and effects which would have made his forerunners gasp with wonder or dismay. The architect uses to the utmost the new power given him by the improved manufacture of iron. The chemical laboratory is tasked to furnish the manufacturer of cotton and silk with colors hitherto unknown.

It must be confessed that at first sight, the sudden quickening of so many impulses and aims, is more confusing than satisfactory. In the temple of art, the casual observer may be pardoned for thinking the altars a little crowded, and the hum of such various

worship rather bewildering. He needs to survey the ground coolly that he may form some notion of the value of what he sees and not be led astray by delusions. It will not take one very long to find out that the results obtained are not as yet in proportion to the activity displayed. In the midst of many productions that are pleasing, many that are clever, and many that are novel, we discover that few works of our time have any just claim to be called great, and that fewer still, if any, are of transcendent beauty or power. We recognize that research, ingenuity, and the chase after originality, neither produce nor imply the creative faculty on which all enduring art depends.

We should be mistaken if we were to imagine from all we hear of the popularizing of art in our time, that art is really more popular now than ever before. On the contrary, its influence was most wide-spread when its highest products seemed to spring spontaneously from the feelings of the age; when the temple or the cathedral, the heroic statue or the religious picture, were in close accord with the ideas and the aspirations of the people in the midst of whom they were created. And would it not be a delusion to suppose that the excitement which is bubbling up about us is comparable in depth to the ardor that illumined the greater epochs? There is certainly no parallel within our experience to the enthusiasm with which all Athens hailed the completion of the Parthenon, to the reverence with which all Florence accompanied Cimabue's Madonna from the studio to the church, to the sorrow with which the Romans gazed on Raphael's last picture as it stood above his coffin.

If, however, we are compelled to admit that the interest in the arts is neither so wide nor so deep as in the periods of greatest achievement, we may fairly assert that it is far more varied than it has ever been. It comes into closer relation with other interests; it enters more largely into the daily occupation and pleasure of the many; it associates itself more nearly with family life and with the offices of friendship. Works which, in their original form, were the pride of a single city or the luxuries of a privileged class, are now the ornament of a thousand homes, or are, at least in large towns, accessible to all in public collections. The importance of pleasing the eye must be taken into account in the manufacture of every commodity capable of adornment. Even the shop card is incomplete unless graced with a design which can be called

Japanese. The use of a magic lantern will draw an audience to any lecture. The most popular magazines are those most profuse in illustrations.

These conditions exist in much the same degree in every civilized country. Freedom of intercourse between nations has indeed been a potent cause of the movement we have been considering. It has tended to efface national characteristics and to break down the strength of local schools. On the one hand it has impaired the concentrated power which comes from submission to a well-defined tradition and a recognized discipline. On the other it has widened men's views of the uses and pleasures of art.

The position of America is exceptional chiefly in this, that we have had no traditions to be destroyed. We must go all the way to the rude pottery and bead work of the Indians, to find an art which does not draw its inspiration from Europe. Our masters have been taught in European schools or influenced by European models. Not one of them has directed his followers in methods or in purposes which are in any broad sense his own. We are wholly subject in this regard to the waves of impulse which come from the old world; and this dependence will not cease until some artist shall arise among us of such originality and distinctness of aim, and such mastery of resource, as to draw into his wake the best artistic intelligence of the country. It would be as easy to predict the weather of this day twelvemonth as to foretell the advent of such a leader.

In respect to architecture, however, this view needs some qualification. The buildings of every country have of necessity a character of their own, because the general forms and arrangements of them are governed by the requirements of those who use them, and by the exigencies of the climate. While, therefore, the architect is subject to fixed principles of construction and design, he is constantly forced to adjust these to new forms and uses. Our private houses are adapted only to our own habits. Our railroad stations and hotels tax the ingenuity of men who have studied their art abroad. The grain elevator, by far the most imposing structure in some of our large cities, cannot be copied from European models. And it is in fact in this branch of art that we have hitherto seen the greatest native progress.

When we turn from what is around and behind us, and look forward, we cannot but find in all this various activity the highest

interest and promise. Failures there will be; they are the prelude of achievement. Our mistakes will be countless; they are steps toward better knowledge. Of this at least we can be sure, that no such ferment among an intelligent and vigorous people can fail of having important results.

If there are some obvious tendencies which may retard those results, it is worth while to consider what they are and how to meet them. Such adverse tendencies are the outcome of the conditions we have been considering. They are the natural deviations and exaggerations of the prevalent feeling about art. The element in that feeling which is most characteristic of this age is its eager curiosity, its desire to know all that man has done and all that man can do. Now curiosity is a motive of immense value: it attaches itself to discovery and experiment; it ranges far and burrows deep; but it has the defects of its qualities; it is apt to be superficial, and it is apt to be narrow; it is more prone to concern itself with means than with ends. These are the very defects of the art of our time. We take more pleasure in variety than in quality. Our ephemeral gratitude is for the man who discovers some new thing under the sun. We are quick to be carried away by the new man, the new theory, the new method, and, whether theory or method be new in itself, or a revival of the old, we are easily tempted to invest it with marvelous powers, and to disparage all other theories and methods for its sake. We are so much fascinated by the clever means which lead to an effective result, that we are sometimes a little careless whether the result itself is of much value, whether it can give real pleasure to the eye or mind if divorced from the sense of the skill and labor which produced it. Hence comes a noticeable disposition in our architects to exaggerate the effective feature of a building, a frequent desire of our painters to put that on canvas which shall catch the public eye at an exhibition, and, in general, the excessive value ascribed to merely technical excellence.

A common effect of an awakened enjoyment of the fine arts, or of some application of them, is a desire to produce something. The act of production is a great pleasure; it is also of great use, if one bears in mind what its uses really are. It exercises the mind, the eye, and the hand; it stimulates observation; it ought to arouse a sense of the great difficulty of accomplishing any good thing in any branch of art. Unfortunately it is apt to be followed

by an undue estimate of the value of the thing produced. It is in human nature that we should be pleased with what we make; and the praise of sympathizing friends is delightful. So it too often happens that the tyro fancies he has been rapidly advancing on the high road, when, in fact, if he has been ill-guided, or if he is deceived in thinking himself endowed with the artistic faculty, he has been toiling toward the end of some blind alley. In his satisfaction with his own performance, he misses the lesson that no work of real value can be produced without long labor, intelligently directed. If his occupation is mere pastime, there is no great harm in this, and still less good; but if he is in earnest he dooms himself to misunderstanding and disappointment.

The spirit of inquiry and experiment is very far from being the only, or the deepest motive in our admiration of beautiful things. I dwell upon it, however, because it is with us a motive of such energy, that we must look to it as a main element in our future progress. Let us have the whole benefit of it then; but let us guard against the errors into which it may lead us. For this we can hardly begin too early. When a child is old enough to go to school, he is old enough to be taught the use of a pencil. His teacher should be competent to instruct him in the rudiments of drawing as well as in those of writing. A few half-hours a week throughout his course at school will teach him enough of drawing to enable him to put on paper a representation, correct as far as it goes, of any object he wishes. So much every child has the capacity to learn, and most children like to learn it. There is no excuse for leaving out of our systems of education, the elementary training of a faculty so simple, so universal, so useful. Such drawing is not art, but it bears much the same relation to art that the copy-book does to literature, and the rudiments of arithmetic to business or science. As much as this is true even of routine instruction. Of course vastly more is gained in the same amount of time if the instruction is given with understanding and spirit. It may then be used to arouse the powers of observation, to awaken the sense of beauty, to implant in the pupil's mind a just notion of the principles of design, to lay a foundation of an appreciation of the arts. The freer and more intelligent methods, which are making their way into our common schools, will be not less fruitful in this than in other branches. A few cheap prints and casts, well chosen, will be of great help to a teacher who can employ them in his instruction.

At the end of his schooling, the pupil, whose aptitude leads him to give his whole time to some branch of art, will bring to it some foundation of knowledge, or at least some facility of hand. He will then pass under the direction of a teacher, skilled in the methods followed in France, in Germany, or in England. Every well established method has its advantages. The choice of the method is of less consequence than the choice of the instructor. The vital consideration in a school of art is that, whatever the method may be, the teacher shall believe in it, shall be thoroughly trained in it, and shall have an enthusiasm for his art, and the faculty of imparting his knowledge and enthusiasm to others. It is, however, in the organization of such schools, that we should especially bear in mind the conditions of our art, its variety and range, its tendency to be superficial, and its tendency to be narrow. There, at least, should superficiality be discouraged. The actual work should be made as interesting as possible, but not at the expense of thoroughness; it should be carefully adapted, at each step, to the pupil's previous attainment; it should aim at nothing less than at giving him the full mastery of his tools. But, besides being thorough, the work of the school should be various in kind. More reasons than one make it important that education in the fine arts, and education in the industrial arts, should proceed side by side. The student in each department gains by study and observation in the other. The close connection and interdependence of the two cannot be severed at this stage, without some disadvantage to the artist, certainly not without grave detriment to the designer. Moreover it often happens that, after a few months of trial, the student of industrial art discovers his vocation to be in the freer fields of painting or sculpture; more often, that the student of painting finds that decorative art is his true calling.

It is most important, too, that the pupil shall have free access to a museum, not necessarily large or costly, but one whose collections are representative of many forms and schools of art. It is there that, by study and comparison, his judgment will be formed, and that whatever is one-sided in his instruction may be corrected by his own intelligence. It is not requisite to dwell upon the value of a museum for the larger purposes of forming public taste and adding to the general enjoyment; but we must not forget that that value depends wholly upon the judgment with which the collection is made. Its directors should avoid spending their

funds upon works which are the fashion of the day, because enough of such can always be procured by loan. They should avoid purchasing works for any other reason than artistic value. They should avoid subjection to any theory of art, for their function is not to give judgment, but to furnish material for the judgment of others. They should aim at making their collection good in quality, varied in kind, interesting in every part. Fortunately the abundance of excellent reproductions enables these principles of selection to be applied to inexpensive as well as to costly museums.

Finally, art in America has no need more plain than that of clear, broad, instructed and reasoned criticism. Our standard in this regard is not high. That curious mixture of fulsome praise, careless censure and studio slang, which frequently fills the fine arts column of a newspaper, is an illustration of this; no writing so worthless on any other topic would be admitted into respectable journals. When we examine criticisms which are more elaborate, and should be more weighty, we find them, on the whole, below the grade to which we are accustomed in other subjects. The critic in science holds himself under strict accountability for his facts and his opinions. The critic in literature feels bound to weigh his judgments, and to estimate, in their due proportion, ideas as well as style; he may be paradoxical, but he cannot with impunity be absurd. The critic in art too often makes free with such restraints; he is much occupied with merely technical merits; he is apt to exalt his notions to the dignity of principles, and to treat with easy disdain what does not conform to them; he assumes too readily the ignorance of his public. Our criticism of the arts,—I speak of the rule, not of the exceptions,—lacks knowledge, impartiality and breadth, and is much given to that dogmatism which is nothing but the emphatic assertion of half-truths.

The critic who has a just sense of his responsibility, will constantly bear in mind the truth well expressed by Mr. Ruskin, that "painting, or art generally, as such, with all its technicalities, difficulties and particular ends, is nothing but a noble and expressive language, invaluable as the vehicle of thought, but by itself nothing." Such a critic will regard the force and beauty of the language which the artist uses in his works, as being "necessary to their greatness," but not the tests of their greatness. He

will recognize the vast range of the thoughts and feelings which can be expressed or suggested by art, and the countless means of expressing and suggesting them; and he will value the means as they accomplish well their end. He will censure work marred by false or imperfect methods; he will censure more severely, work which is barren of thought, however skilful may be the methods employed in it; he will reserve his highest praise for the adequate expression of noble and beautiful ideas; and he will treat generously every honest effort toward this high end.

What is true of the critic is true in a degree of us all. Each of us, in his place, may, by taking thought, do something to urge the onward march of art in America, and to check whatever may be wayward in its impulses.

Mr. J. S. Clarke, of Boston, spoke at some length on the general subject opened by the Report, but there was no other debate. The chairman, Mr. Sanborn, then presented an abstract of a Paper submitted by Mr. W. F. Ford, of New York, on Municipal Indebtedness. Mr. Ford said that a circular of certain New York bankers, in 1870, dwelt upon the exceptional value of municipal bonds as investments, owing to the fact that the city, in borrowing money, although exercising a sovereign power, contracts as a private corporation, and was, therefore, amenable to the courts in relation to the enforcement of contracts; in short, that a city would be compelled to pay its debts through the issuing of writs of mandamus. Harm was done by inducing the investing classes to purchase city bonds freely without giving due attention to the condition of a given city, and the amount of obligations it might be issuing. Later experience has shown that the writ of mandamus is all powerful only about as far as it is not really needed. In other words, that a rate of taxation so high as to seriously encroach upon the bread and butter of a community cannot be collected. The attempt to do so causes a depopulation of the city. In contrasting the rise of municipal credit in the United States, with its origin in England, it is to be noted that while in England the doctrine, that a municipality has an implied power to borrow money, has never obtained tangible foothold, it has been

held by some of our State courts that a city has such an implied power, merely by virtue of its existence as a body corporate and politic. It was pointed out how the partial acceptance of this doctrine in the United States has done harm by furthering the extension of the credit system in the United States as a distinctive feature of local government. The rulings of the United States Supreme Court have been dangerously near the pernicious doctrine that municipal bonds have the qualities of commercial paper. Happily, it can now be said that the country has fairly escaped the perils which would have followed the adoption of this doctrine, and that, in consequence, the purchaser of a municipal bond is bound to enquire into the legality of its issue. The pernicious influence of the borrowing business as a feature of local government in the United States was dwelt upon, and it was asserted that the history of the Tweed *regime* in New York city, instead of going to prove, as is often asserted, the failure of the representative principle in dense communities in America, was no more nor less than the abuse of credit unwisely given. In closing, a summary of many special reports was given from the principal cities of the United States, showing a wide-spread improvement in the condition of municipal finances.

A similar view, supported by many figures from the forthcoming census report of 1880, had been presented by Mr. Robert P. Porter, of the United States Census Bureau, at a special session on the 8th of September. But the full text of neither of these papers has been received by the Secretary.

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